ing by certain types of exempt organizations; to the Committee on Ways and Means.

By Mr. GALLAGHER:

H.R. 13975. A bill to assure the fair selection of jurors and enforce the equal right to jury service, and for other purposes; to the Committee on the Judiciary.

By Mr. HATHAWAY:

H.R. 13976. A bill to amend the Fair Packaging and Labeling Act to provide for a uniform system of quality grades for food products, to provide for a system of labeling of food products to disclose the ingredients thereof, to provide for a system of national standards for nutritional labeling of food products, and to provide for a system of labeling of perishable and semiperishable foods; to the Committee on Interstate and Foreign Commerce.

By Mr. HANNA:

H.R. 13977. A bill to amend title II of the Social Security Act to increase to $4,000 the amount of outside earnings permitted each year without any deductions from benefits thereunder, and to reduce from 72 to 70 the age at which deductions from an individual's benefits on account of outside earnings will cease to be made; to the Committee on Ways and Means.

By Mrs. HECKLER of Massachusetts:

H.R. 13978. A bill establishing a commission to develop a realistic plan leading to the conquest of multiple sclerosis at the earliest possible date; to the Committee on Interstate and Foreign Commerce.

By Mr. HORTON:

H.R. 13979. A bill to require the payment of interest on escrow accounts held in connection with residential real estate mortgage loans; to the Committee on Banking and Currency.

By Mr. KOCH (for himself, Mr. DULSKI, Mr. FAUNTROY, and Mr. MURPHY of New York):

H.R. 13980. A bill to amend the Urban Mass Transportation Act of 1964 to provide emergency grants for operating subsidies to urban mass transportation systems on the basis of passengers serviced; to the Committee on Banking and Currency.

By Mr. LEGGETT (for himself, Mr. QUIE, Mr. ULLMAN, and Mr. TEAGUE of California):

H.R. 13981. A bill to provide for the establishment of an Agricultural Labor Relations Board for the purpose of regulating the agricultural industry and agricultural labor and for other purposes; to the Committee on Education and Labor.

By Mr. LONG of Louisiana:

H.R. 13982. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. McCULLOCH (for himself, and Mr. GERALD R. FORD):

H.R. 13983. A bill to further the achievement of equal educational opportunities; to the Committee on Education and Labor.

By Mr. MAZZOLI:

H.R. 13984. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. MONAGAN:

H.R. 13985. A bill to regulate the time for holding presidential primaries; to the Committee on House Administration.

By Mr. QUILLEN:

H.R. 13986. A bill to provide financial assistance for the construction and operation of senior citizens' community centers, and for other purposes; to the Committee on Education and Labor.

By Mr. RAILSBACK:

H.R. 13987. A bill to amend the Administrative Conference Act; to the Committee on the Judiciary.

By Mr. ROY:

H.R. 13988. 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; to the Committee on Armed Services.

H.R. 13989. A bill to expand the membership of the Advisory Commission on Intergovernmental Relations to include elected school board officials; to the Committee on Government Operations.

H.R. 13990. A bill to amend title 38 of the United States Code to insure that beneficiaries under the Servicemen's Group Life Insurance Program of certain members of the Armed Forces in missing status are not denied the benefits of such program; to the Committee on Veterans' Affairs.

By Mr. ROYBAL:

H.R. 13991. A bill to amend title II of the Social Security Act to provide a 20-percent across-the-board increase in benefits thereunder, to increase the amount of earnings counted for benefit and tax purposes, and to make appropriate adjustments in social security tax rates; to the Committee on Ways and Means.

By Mr. SPRINGER:

H.R. 13992. A bill to authorize the conveyance to the Columbia Hospital for Women of certain parcels of land in the District of Columbia, and for other purposes; to the Committee on District of Columbia.

H.R. 13993. A bill to amend the Public Health Service Act to provide for the prevention of sickle cell anemia; to the Committee on Interstate and Foreign Commerce.

By Mr. J. WILLIAM STANTON:

H.R. 13994. A bill to extend for 3 years the District of Columbia Medical and Dental Manpower Act of 1970; to the Committee on District of Columbia.

By Mr. ULLMAN (for himself, Mr. CAREY of New York, Mr. CÓRDOVA, Mr. DANIELSON, Mr. DINGELL, Mr. LEGGETT, Mr. MILLER of California, Mr. SISK, Mr. VANIK, Mr. CHARLES H. WILSON, and Mr. YATRON):

H.R. 13995. A bill to provide for the selection of candidates for President of the United States in a national presidential primary election, and for the election of a President and a Vice President by direct vote of the people, and for other purposes; to the Committee on House Administration.

By Mr. WOLFF:

H.R. 13996. A bill to amend the tariff and trade laws of the United States to promote full employment and restore a diversified production base; to amend the Internal Revenue Code of 1954 to stem the outflow of U.S. capital, jobs, technology and production, and for other purposes; to the Committee on Ways and Means.

By Mr. ABBITT:

H.J. Res. 1122. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations shall not exceed revenues of the United States, except in time of war or national emergency; to the Committee on the Judiciary.

By Mr. BETTS:

H.J. Res. 1123. Joint resolution to authorize the President to proclaim annually the last Friday of April as "National Arbor Day"; to the Committee on the Judiciary.

By Mr. CONABLE (for himself and Mr. HORTON):

H.J. Res. 1124. Joint resolution to provide for the designation of the week which begins on September 10, 1972 as "National Microfilm Week"; to the Committee on the Judiciary.

By Mr. ULLMAN (for himself, Mr. CAREY of New York, Mr. CÓRDOVA, Mr. DANIELSON, Mr. LEGGETT, Mr. MILLER of California, Mr. SISK, Mr. VANIK, Mr. CHARLES H. WILSON, and Mr. YATRON):

H.J. Res. 1125. Joint resolution proposing an amendment to the Constitution of the United States regarding the election of the President and Vice President and the nomination of candidates for the Presidency; to the Committee on the Judiciary.

By Mr. ROE:

H. Con. Res. 568. Concurrent resolution providing for the recognition of Bangladesh; to the Committee on Foreign Affairs.

H. Con. Res. 569. Concurrent resolution expressing the support of the Congress for the U.S. delegation to the United Nations Conference on the Human Environment; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS,

Under clause 1 of rule XXII,

Mr. HENDERSON introduced a bill (H.R. 13997) for the relief of James K. Lewis, which was referred to the Committee on the Judiciary.

SENATE—*Tuesday, March 21, 1972*

The Senate met at 9:15 a.m. and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

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

Almighty God, as daily we pause to acknowledge Thy sovereignty, may we open our hearts and minds to the reality of Thy abiding presence at all times and in all places. Emancipate us from all the petty evils which erode character, the cynicism which negates Thy reality, and the barriers of temperament which close the door to Thee. Open our minds and hearts that they may be large enough to comprehend the love that redeems us from our littleness and the grace that endues us with power for all our tasks. Make us partners with Thee and with one another in striving for a better nation, of better people for the making of a better world.

We pray in the Redeemer's name. 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 legislative clerk read the following letter:

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 21, 1972.

To the Senate:

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

ALLEN J. ELLENDER,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, March 20, 1972, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order Nos. 665, 666, 667, 668, and 669.

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

RECOGNITION OF BANGLADESH

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 55) providing for the recognition of Bangladesh, which had been reported from the Committee on Foreign Relations with an amendment in line 3, after the word "should", strike out "immediately"; so as to make the concurrent resolution read:

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the President should recognize Bangladesh as an independent foreign country and recognize the Government of that country.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CHURCH. Mr. President, the resolution now before the Senate, Senate Concurrent Resolution 55, is very simple. Its brief text fully states its purpose, and that is to express the sense of the Congress that the President should recognize Bangladesh as an independent country and should recognize its government.

By approving this resolution the Senate would be doing two things: It would be saying to the President that the American people would approve of and support a decision to recognize Bangladesh and it would be indicating to the people of Bangladesh that they enjoy the respect and admiration of the American people.

There is ample evidence in the wide, bipartisan support for this resolution that both of these propositions are true. Since Senator SAXBE and Senator HOLLINGS introduced Senate Concurrent Resolution 55 on January 25 they have been joined by 29 other cosponsors from both sides of the aisle. Furthermore, the Committee on Foreign Relations, following 3 days of hearings, unanimously recommended the adoption of this resolution by the Senate.

I know of no opposition to the basic proposition that the United States should recognize Bangladesh. Even the executive branch witnesses who testified before the committee, while obviously not enthusiastic about the prospect of receiving the Senate's advice, did not argue against the recognition of Bangladesh.

Their only specific objection, if it could be called that, took the form of an implied expression of concern over the advisability of recognition prior to the withdrawal of Indian troops from Bangladesh.

Today, however, even that theoretical obstacle no longer exists. On December 12 all Indian troops were withdrawn from Bangladesh as the Indian Government had promised they would be.

In every respect the new nation of Bangladesh now clearly meets the criteria for recognition which our Government has followed in recent years. These criteria, as set forth in the State Department Digest of International Law are:

(1) Whether the Government is in *de facto* control of the territory and in possession of the machinery of the State;

(2) Whether it is administering the government with the assent or consent of the people, without substantial resistance to its authority, i.e., whether there is public acquiescence in the authority of the government; and

(3) Whether the new Government has indicated its willingness to comply with its international obligations under treaties and international law.

In addition the Digest cites certain other factors bearing on recognition which, it notes, are "increasingly borne in mind." These are:

. . . the existence or nonexistence of evidence of foreign intervention in the establishment of the new regime; the political orientation of the Government and its leaders; evidence of intention to observe democratic principles, particularly the holding of elections, the attitude of the new Government toward private investment and economic improvement. Importantly, also, the interest of peoples, as distinguished from governments, is of concern.

I should point out that even before the Indian withdrawal we had been assured by the representatives of the executive branch that all of these criteria had been affirmatively met.

In connection with these criteria, the report accompanying the present resolution contains the following comments by the Committee on Foreign Relations:

The committee notes that the new Government in Dacca does indeed control the territory of Bangladesh and, that despite the enormous task of rebuilding which it faces, is administering the country with the consent of the Bengali people in accordance with the provisions of a democratic constitution. Bangladesh's acceptance of and ability to discharge the functions and obligations of independent status is attested to by the fact of its recognition by nearly 50 nations.

In my view the time has come for the U.S. Government to recognize the Government of Bangladesh. I regret that our Government did not do so long ago. We should have been the first. As it is, some 48 nations have already recognized Bangladesh. They include all major powers except the United States and China; many of the Commonwealth nations, including the United Kingdom, Australia, New Zealand, and Canada; all SEATO members except the United States and Pakistan; and many Southern Asian nations.

Mr. President, I ask unanimous consent that a list of those countries which have already recognized Bangladesh be inserted in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. CHURCH. Mr. President, in its comments to the Committee on Foreign Relations about the Bangladesh resolution executive branch representatives referred to the need to develop "a new set of relationships" with the countries in South Asia and asserted that the question of the recognition of Bangladesh was but one issue involved in an overall policy review. I would certainly be the first to agree on the basis of recent sad experience that our policy toward South Asia is in need of review. I also believe, however, that the recognition of Bangladesh is one step in the direction of a new policy which can and should be taken immediately.

Those like myself who have visited the subcontinent recently have recognized how deep the feeling in that area runs against the Government of the United States. At the same time, there is a belief in Bangladesh, and in India, that regardless of the past position of the American Government that the American people are sympathetic to the cause of Bangladesh. For that reason I believe it is extremely important to demonstrate the vitality of the democratic process in this country.

Affirmative action on this resolution would do much to reassure our friends in Bangladesh and in India. It would tend to confirm their faith in us and to remind them that we are a democratic country and that we share common values.

In considering the recognition of Bangladesh, our Government has an opportunity to uphold the right of self-determination of a new nation whose struggle for independence so closely parallels our own. It is, after all, the right of self-determination which we say we are seeking to uphold in the protracted war in Vietnam. Indeed the President himself in the recent Shanghai communique took the position that "the United States supports the right of the peoples of South Asia to shape their own future."

The people of Bangladesh have acted courageously to shape their own destiny. In the process they have suffered hideously and an end to their travail is not yet in sight. I hope that our Government

will do all within its power to assist them in the days ahead as they undertake the task of reconstruction. Meanwhile, it would seem the very least we could do to extend to the people of Bangladesh our sympathy and our understanding by welcoming them to the world community as an independent, democratic nation. We can do this by approving the resolution which we have before us today.

EXHIBIT 1

COUNTRIES WHICH HAVE RECOGNIZED THE PEOPLE'S REPUBLIC OF BANGLADESH (1)

India, December 6, 1971.
Bhutan, December 7, 1971.
East Germany (GDR), January 11, 1972.
Bulgaria, January 11, 1972.
Poland, January 12, 1972.
Mongolia, January 12, 1972.
Burma, January 13, 1972.
Nepal, January 16, 1972.
Central African Republic, February 16, 1972.
Barbados, January 12, 1972.
Yugoslavia, January 22, 1972.
U.S.S.R., January 24, 1972.
Czechoslovakia, January 25, 1972.
Hungary, January 26, 1972.
Cyprus, January 27, 1972.
Tonga, January 29, 1972.
Cambodia, January 30, 1972.
Fiji, January 31, 1972.
Australia, January 31, 1972.
New Zealand, January 31, 1972.
Senegal, February 1, 1972.
United Kingdom, February 4, 1972.
West Germany, February 4, 1972.
Norway, February 4, 1972.
Finland, February 4, 1972.
Denmark, February 4, 1972.
Sweden, February 4, 1972.
Iceland, February 4, 1972.
Israel, February 4, 1972.
Austria, February 4, 1972.
West Samoa, February 8, 1972.
Cuba, February 9, 1972.
Japan, February 10, 1972.
Belgium, February 11, 1972.
Netherlands, February 11, 1972.
Luxembourg, February 11, 1972.
Ireland, February 11, 1972.
France, February 12, 1972.
Italy, February 12, 1972.
Canada, February 14, 1972.
Singapore, February 16, 1972.
Thailand, February 16, 1972.
Mauritius, February 21, 1972.
Philippines, February 24, 1972.
Indonesia, February 25, 1972.
Malaysia, February 26, 1972.
Malawi, February 29, 1972.
Ceylon, March 5, 1972.
Greece, March 11, 1972.
Switzerland, March 13, 1972.

(1) List compiled from information provided by the Department of State as of March 21, 1972.

Mr. HOLLINGS. Mr. President, I speak today on behalf of immediate U.S. recognition of the new nation of Bangladesh. It is long past time that we took this important step. And it is long past time that we cast aside the disastrous and losing policy we have been following in South Asia since this crisis first began.

It has been a year and a quarter now since the people of East Pakistan won the right to carve their own destiny. They won that right at the polls—in a free and open election. As we all recall, the Awami League—campaigning on a platform of provincial autonomy, won an overwhelming mandate at the polls. The league captured 167 of the 169 East Pakistani seats to the National Assembly. At last they had won sufficient voice to determine their own future.

But that initial victory, rather than sealing the triumph, was but a prolog to tragedy. President Yahya Khan reacted in rage and canceled the scheduled meeting of the new Assembly. Far more grievously, he launched a deliberate policy of suppression and brutality seldom—if ever—surpassed in the annals of history. For month after sickening month, the world watched in shock as pillage, rape and murder swept over the territory of East Pakistan. No horror was too brutal to commit, no inhumanity too vile. Nine million refugees sought survival in India. But hundreds of thousands of others were denied even that. They fell dead before the policy of genocide approved by the authorities of the West. For its sheer intensity, this mass murder surpassed even the carnage of the Nazis during the Second World War.

Freedom-loving people the world over looked to the United States to use its influence on the side of freedom. Yet during all those months, the administration threw its weight on the side of tyranny. The Land of the Free and the Home of the Brave refused to stand four square against the barbarism and butchery of the West Pakistani authorities. It refused to endorse the results of the free election, and endorsed instead the brutal dictatorship of a small clique of sick generals.

And this, Mr. President, is a large part of the tragedy. For over a decade now, the United States has been fighting a grueling and agonizingly expensive war in South Vietnam. Over 55,000 young Americans have lost their lives as a result of our involvement in Indochina. We have been told year in and year out that the reason we are there is to give the people of South Vietnam the chance to choose their own way of life—the chance to hold a free and open election. In the case of Pakistan, the free election was held. Nobody can deny that. The results were clear. Yet the Nixon administration callously and foolishly closed its eyes to the results. It cemented its ties to the sick regime of the discredited Yahya Khan. It gave him moral support. It gave him full diplomatic support. Not a murmur was heard to suggest that the administration was in any way dismayed at the policy of terror which was engulfing the poor people of East Pakistan. And—until exposed in late 1971—the administration furnished Yahya with military equipment.

Our friends in India, of course, could not believe it. For nearly 25 years—ever since the Indians achieved their own nationhood—we had made every effort to help this largest of all the democracies. We invested over $8 billion of aid in India's future. And although our two countries did not always see eye to eye, there was mutual respect and genuine friendship. President Nixon's policy ruined it all. When 9 million Pakistani refugees poured over the border into India—causing more hardship to a land whose history is one long tale of hardship—the Indians were bound to react. I think our own country would react very strenuously if such a migration occurred on our northern or southern border. But the Nixon administration showed no sympathy. It shut its eyes and closed its ears. The only thing left open was its mouth, and that was only used to accuse the Indians of aggression. So today our relationship with India has been severely strained. We have sacrificed 25 years of labor and money in India in a futile and stupid effort to prop up a would-be dictator in Pakistan. Yahya's regime did not deserve to survive. We have made a major and a tragic mistake.

The people of Bangladesh made good their claim to freedom in spite of American opposition.

Now they are struggling with the awesome tasks of reconstruction. Their future is by no means assured. Gigantic problems are ahead. The road is filled with many obstacles. But they have their own government. They have a leader who the vast majority of people obviously support. And they have the great spirit which comes from a good cause won—a worthy ideal made good.

They have earned the right to try to carve their own destiny. They have earned the right to at least be recognized by the other nations of the world.

As of today, Mr. President, 52 nations—including all the major powers except the United States and Mainland China—have recognized the new nation of Bangladesh. I read just the other day that one reason the administration was holding back in recognizing Bangladesh was not to give offense to the Peking regime. Since when have we begun taking our diplomatic cue from the Red Chinese? Since when have they started determining American policy toward the recognition of other nations? And since when have we begun withholding recognition from a new democracy in order to appease the aged leaders of the Chinese dictatorship?

The list of 52 grows larger every day. Peoples the world over are dealing with the reality of Bangladesh. Yet the administration stands back, the slave of some arcane and twisted illogic. The world's greatest democracy fails even to recognize the existence of the world's newest democracy.

Now that Bangladesh exists, it should be the policy of the United States to exert every possible effort toward the continued independence of that land. We should want it to be no nation's client—be it India's or Russia's or anyone else's.

The best way to do this, Mr. Chairman, is to accord it American recognition. If we stubbornly continue holding back, other nations with different motives will fill the vacuum. And the leaders of Bangladesh will find their options limited. With American recognition, the people of Bangladesh would have another friend to turn to. They would have another card to play in their own diplomacy. As things now stand, we are pushing Bangladesh entirely the wrong way.

On January 25, the distinguished senior Senator from Ohio (Mr. SAXBE) and I introduced Concurrent Resolution 55 calling upon the President to grant immediate recognition to Bangladesh. It is a brief and simple resolution—

Resolved by the Senate (the House of Representative concurring), That it is the

sense of the Congress that the President should immediately recognize Bangladesh as an independent foreign country and recognize the government of that country.

Our resolution does not go into further and more detailed policy considerations because that might mean prolonging the debate and postponing the act of recognition. Right now it is the recognition which is most important. Without recognition, nothing will be done to help the struggling people of Bangladesh. Once recognition is achieved, however, the way will be open to the determination of a new policy. That is why I urge the merits of Concurrent Resolution 55. It is unencumbered by involved and complex problems. And it goes to the heart of the matter. It deals with the only logical point of beginning—the simple recognition that a new country exists and that it merits the diplomatic recognition we accord to almost all nations.

As of today, 29 Senators have joined Senator SAXBE and myself in supporting passage of Concurrent Resolution 55. They come, I am pleased to say, from both sides of the aisle. It is not a partisan issue, and it must not be allowed to become a partisan issue. Republicans and Democrats I have talked to are equally surprised by the reckless policy we have been following in South Asia.

Mr. President, over the past year I have followed these events closely. And I have been consulting with many experts—both in and out of the Government. I have consulted the State Department. I have consulted the CIA. I have talked with the diplomats involved. I have not talked to a single individual, Mr. President, who can give me a legitimate reason why we should not grant recognition and grant it now. The reason I have uncovered no such reason is simple—there is none.

Mr. President, I come here today to urge the speediest possible action on this important measure. I am encouraged by the swift action of the Foreign Relations Committee in reporting this resolution out. We must recognize Bangladesh.

It is right that we do so. And it is in our own self-interest that we do so. This is no fuzzy debate between the realists and the moralists, between those who would make foreign policy with their head and those who would make it with their heart. On this question, realist and moralist are on the same side. And I hope that, as a result of the overwhelming response of the American people through their elected representatives in Congress, the Nixon administration will soon be on the same side. We cannot right the wrongs of the past, Mr. President. But we can try to build a better future by learning from the mistakes of the past. The administration can only do itself credit by granting immediate recognition to the brave people of Bangladesh.

I ask unanimous consent that a list of nations recognizing Bangladesh and a list of cosponsors of the concurrent resolution be printed in the RECORD.

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

NATIONS RECOGNIZING BANGLADESH

Australia, Austria, Barbados, Belgium, Bhutan, Bulgaria, Burma, Cambodia, Canada, Central African Republic, Ceylon, Cuba.

Cyprus, Czechoslovakia, Denmark, Federal Republic of Germany, Finland, Fiji, France, Gambia, German Democratic Republic, Greece, Hungary, Iceland.

India, Indonesia, Ireland, Israel, Italy, Japan, Luxembourg, Malawi, Malaysia, Mauritius, Mongolia, Nepal.

Netherlands, New Zealand, Norway, Philippines, Poland, Samoa, Senegal, Singapore, Sweden, Swaziland, Switzerland, Thailand, Tonga, United Kingdom, U.S.S.R., Yugoslavia.

Total—52.

CONCURRENT RESOLUTION 55—COSPONSORSHIPS

Introduced by Senators Saxbe and Hollings.

Allott, Bayh, Bentsen, Case, Chiles, Church, Cranston, Fulbright, Gravel, Harris.

Hart, Hartke, Hughes, Inouye, Javits, Kennedy, Magnuson, Moss, Muskie, Nelson.

Pell, Percy, Ribicoff, Schweiker, Stevens, Stevenson, Tunney, Weicker, Williams.

Total: 31 Senators support Concurrent Res. 55.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the concurrent resolution, as amended.

The concurrent resolution, as amended, was agreed to.

VOLUNTEERS IN THE NATIONAL FORESTS ACT OF 1971

The Senate proceeded to consider the bill (S. 1379) to authorize the Secretary of Agriculture to establish a volunteers in the national forests program, and for other purposes which had been reported from the Committee on Agriculture and Forestry with amendments on page 2, line 2, after the word "Service.", insert "In carrying out this section, the Secretary shall consider referrals of prospective volunteers made by ACTION."; and, on page 3, line 1, after the word "than", strike out "$500,000" and insert "$200,000"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture (hereinafter referred to as the "Secretary") is authorized to recruit, train, and accept without regard to the civil service classification laws, rules, or regulations the services of individuals without compensation as volunteers for or in aid of interpretive functions, visitor services, conservation measures and development, or other activities in and related to areas administered by the Secretary through the Forest Service. In carrying out this section, the Secretary shall consider referrals of prospective volunteers made by ACTION.

SEC. 2. The Secretary is authorized to provide for incidental expenses such as transportation, uniforms, lodging, and subsistence.

SEC. 3. (a) Except as otherwise provided in this section, a volunteer shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(b) For the purpose of the tort claim provision of title 28 of the United States Code, a volunteer under this Act shall be considered a Federal employee.

(c) For the purposes of subchapter I of chapter 81 of title 5 of the United States Code, relating to compensation to Federal employees for work injuries, volunteers under this Act shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not more than $200,000 shall be appropriated in any one year.

SEC. 5. This Act may be cited as the "Volunteers in the National Forests Act of 1971".

Mr. JORDAN of Idaho. Mr. President, I am pleased that we have before us today S. 1379, a bill which I introduced to establish a volunteers in the national forest program. This bill has attracted widespread support as well as the cosponsorship of 26 of my Senate colleagues, as follows: Senators BAKER, BAYH, BENNETT, BIBLE, CHURCH, CURTIS, DOMINICK, FANNIN, GRAVEL, GURNEY, HANSEN, HART, HATFIELD, HOLLINGS, HRUSKA, HUMPHREY, MCGOVERN, MCINTYRE, MONTOYA, MOSS, MUSKIE, PACKWOOD, PELL, STEVENS, THURMOND, and TOWER.

Mr. President, this legislation will authorize the Secretary of Agriculture to establish a volunteers in the national forest program similar to the volunteers in the parks program which we approved 2 years ago. These volunteers will be employed to work without compensation in areas administered by the Forest Service, just as the Park volunteers work in the national parks under Park Service supervision.

National forests are found in 40 of the United States covering 186.9 million acres, a quarter of all Federal lands. Forests are an integral part of the country's woodlot, grazing and watershed resources, providing for the needs of industry, agriculture and public recreation, and for ecological balance. Administered by a competent Career Corps, the Forest Service has initiated numerous public services to assist the vast throngs of visitors attracted for activities ranging from rock hunting to skiing or just observing nature. The forests are heavily used now on a year-round basis and a further increase can be expected as more people take advantage of expanded leisure time to seek a temporary escape from urban life among the towering mountains, tall trees and sparkling waterways of the forest domain.

Among the millions of people who go into the forests each year are many who would like to spend more than a brief visit. There are many who would like to participate as volunteers in Forest Service programs but who cannot qualify under Federal employee standards. Others are engaged in unrelated professions and cannot be utilized because of the lack of disability insurance coverage, transportation, and identifying uniforms. The contributions of such people through the volunteers program established in this bill could greatly supplement the work force of the forest rangers who already have heavy responsibilities and tremendous acreage to cover.

The volunteer assistants would not interfere with nor compete with the jobs of career workers and regular seasonal employees. The forest volunteers would be dedicated men and women who are

willing to contribute some of their knowledge, experience, and interest to help others derive a greater benefit from the forests and to supplement the outstanding performance of the Career Corps.

Volunteers could assist with tree planting programs, maintaining and refurbishing campgrounds, planting forage for wildlife, and other forest programs. As environmental study assistants they could help acquaint children and adults with an on-the-scene appreciation of nature and the local environment, help build and supervise nature trails for the handicapped, and aid in various educational activities.

As research assistants in history, archeology and natural science they could help staff members develop information which will contribute to man's knowledge and understanding of the forest. They also could help visitors obtain the maximum enjoyment and understanding of the history and the natural and recreational resources of their home forest area.

While they would not receive a salary, the volunteers would be reimbursed for meals, transportation, uniforms, and medical examinations and they would be covered under the Federal Employees' Compensation Act and the Federal Tort Claims Act.

Since the volunteers would be involved in conservation and environmental education and in providing special services to forest visitors without compensation, the public benefit would far exceed the Federal investment. The Forest Service would benefit greatly from such a program and so would the volunteers and visitors to the national forest.

The letters I have received in support of this legislation have come from a wide cross section of the American public—not only from interested persons and conservation groups in the West but also from easterners who want the chance to get out of doors and breathe clear forest air while being of service to their country at the same time.

S. 1379 is a worthwhile bill designed to encourage individual participation in the struggle to improve the Nation's environment, and I strongly urge favorable consideration of it by this Chamber. I note that the House Agriculture Committee has begun action on a companion bill so it appears that there is a good chance that the program can be operational this coming summer.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–696), explaining the purposes of the measure.

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

EXPLANATION

This bill authorizes the employment of volunteers to work without compensation in areas administered by the Forest Service. The Secretary of Agriculture could provide for incidental expenses, such as transportation, uniforms, lodging, and subsistence. The volunteers would not be considered Federal employees, except for purposes of tort claims and compensation for work injuries.

Volunteers would be used in interpretive activities as needed along the historic trails such as the Lewis and Clark National Historic Trail. They would provide their skills for the development and presentation of visitor programs in connection with interpretive trails, visitation centers, information stations, and amphitheaters. In some cases they may construct or refurbish special projects, for example part of the National Trail System. Volunteers would provide a valuable extension of the environmental education program of the agency on the National Forests and National Grasslands as well as in nearby schools. They would assist in the youth programs operated by the Forest Service such as the Youth Conservation Corps, Job Corps, and Neighborhood Youth Corps.

The duties of the volunteers would include providing special information services to visitors, assisting at historical and special events, increasing the availability of interpretive programs, providing special skills, training volunteers in specialized cases, assisting in special research projects such as historical research of a ghost town, writing brochures on trees, plants, birds, and mammals or other features of interest, working on special projects, and teaching special subjects.

In the past, the Forest Service has accepted the volunteer services of private citizens on a nonappointed basis. These volunteers were not covered under the Federal Employees' Compensation Act nor the Federal Tort Claims Act. This legislation would extend such coverage, plus authorization of such things as meals, transportation, uniforms, awards, and medical examinations as appropriate.

AMENDMENTS

The Department of Agriculture suggested two amendments. The first provided on page 2, line 2, that "The Secretary shall consider referrals of prospective volunteers made by ACTION for the volunteers in the National Forests Program." This amendment, with technical changes only, was adopted by the committee. However, the committee feels that while the Secretary of Agriculture must consider referrals of volunteers made by ACTION, he is under no compulsion to accept such volunteers.

ACTION was established as an independent agency in the executive branch by Reorganization Plan 1 of 1971, effective July 1, 1971.

The purpose of the agency is to bring together within a single agency a number of voluntary action programs from throughout the Federal Government.

These include SCORE; ACE; VISTA; auxiliary and special volunteer programs, including the National Student Volunteer program; Foster Grandparents program; RSVP; Peace Corps; and Office of Voluntary Action.

The second amendment suggested by the Department was a maximum authorization of $100,000 in lieu of the $500,000 provided by the bill. The committee felt that $100,000 might be inadequate to finance the type program envisioned. Therefore, the committee recommended a maximum annual appropriation authorization of $200,000. Many volunteers, with technical knowledge, as well as others, could be used to perform a variety of services leading to the enrichment of visits by the people of this Nation to the National Forest System and to help build a meaningful association between these visitors and the environment of rural America.

COST ESTIMATE

In accordance with section 252 of the Legislative Reorganization Act of 1970 the committee concurs with the estimates of cost of the Department that no operations or expenditures are anticipated in the current fiscal year. The committee estimates costs of about $200,000 for each of the 5 succeeding fiscal years. In such succeeding years costs would vary depending upon the size of the program. Estimates are that costs could vary from $150 to $200 per volunteer. The authorization in the bill would permit a maximum of about 1,333 volunteers at the lower level and 1,000 at the higher level.

DEPARTMENTAL REPORT

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., February 4, 1972.

Hon. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture and Forestry, U.S. Senate.

DEAR MR. CHAIRMAN: As you requested, here is our report on S. 1379, a bill to authorize the Secretary of Agriculture to establish a volunteers in the national forests program, and for other purposes.

This Department recommends that S. 1379 be enacted if amended as suggested.

S. 1379 would authorize the Secretary of Agriculture to accept services of volunteers for or in aid of interpretive functions, visitor services, conservation measures and development, or other activities in and related to areas administered by the Secretary of Agriculture through the Forest Service. The volunteers would be considered as Federal employees in relation to tort claims and compensation for work injuries but not otherwise. Sums as may be necessary to carry out the provisions of the bill but not more than $500,000 in any 1 year, would be authorized to be appropriated.

Enthusiastic volunteers are available to do a variety of things which enrich visits to the National Forest System lands and help build a meaningful association between the visitor and the environment of rural America.

Such volunteers would perform services which complement, but not replace, the efforts of regular career staff.

Volunteers would be used in interpretive activities as needed along the historic trails such as the Lewis and Clark National Historic Trail. They would provide their skills for the development and presentation of visitor programs in connection with interpretive trails, visitation centers, information stations, and amphitheaters. In some cases they may construct or refurbish special projects, for example parts of the National Trail System. Volunteers would provide a valuable extension of the environmental education program of the agency on the National Forests and National Grasslands as well as in nearby schools. They would assist in the youth programs operated by the Forest Service such as the Youth Conservation Corps, Job Corps, and Neighborhood Youth Corps.

The duties of the volunteers would include providing special information services to visitors, assisting at historical and special events, increasing the availability of interpretive programs, providing specialized skills, training volunteers in specialized cases, assisting in special research projects such as historical research of a ghost town, writing brochures on trees, plants, birds, and mammals or other features of interest, working on special projects, and teaching special subjects.

In the past, the Forest Service has accepted the volunteer services of private citizens on a nonappointed basis. These volunteers were not covered under the Federal Employees' Compensation Act nor the Federal Tort Claims Act. This legislation would extend such coverage, plus authorization of such things as meals, transportation, uniforms, awards, and medical examinations as appropriate.

We support enactment of S. 1379 subject to a maximum authorization of $100,000 which would be adequate once the program is fully underway. We do not anticipate any operations or expenditures for the current fiscal year. We also suggest the following sentence be added after "Service," on line 2, page 2: "The Secretary shall consider referrals of prospective volunteers made by ACTION for the volunteers in the National Forests Program."

The Office of Management and Budget advises that there is no objection to the pres-

entation of this report from the standpoint of the administration's program.

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

The amendments were agreed to.

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

DISPOSAL OF LEAD

The bill (S. 764) to authorize the disposal of lead from the national stockpile and the supplemental stockpile was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 764

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services is hereby authorized to dispose of approximately four hundred ninety-eight thousand short tons of lead now held in the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h) and the supplemental stockpile established pursuant to section 104(b) of the Agricultural Trade Development and Assistance Act of 1954, 68 Stat. 456, as amended by 73 Stat. 607. Such disposition may be made without regard to the requirements of section 3 of the Strategic and Critical Materials Stock Piling Act: *Providing,* That the time and method of disposition shall be fixed with due regard to the protection of the United States against avoidable loss and the protection of producers, processors, and consumers against avoidable disruption of their usual markets.

SEC. 2. (a) Disposals of the material covered by this Act may be made only after publicly advertising for bids, except as provided in subsection (b) of this section or as otherwise authorized by law. All bids may be rejected when it is in the public interest to do so.

(b) The material covered by this Act may be disposed of without advertising for bids if—

(1) the material is to be transferred to an agency of the United States;

(2) the Administrator determines that methods of disposal other than by advertising are necessary to protect the United States against avoidable loss or to protect producers, processors, and consumers against avoidable disruption of their usual markets; or

(3) sales are to be made pursuant to requests received from other agencies of the United States in furtherance of authorized program objectives of such agencies.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–697), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

This bill would authorize the disposal of approximately 498,000 short tons of lead from the national stockpile and the supplemental stockpile. The Director of Emergency Preparedness has determined that this quantity of lead is excess to stockpile needs. The proposal is a part of the legislative program of the General Services Administration for 1971.

EXPLANATION OF THE BILL

Why congressional action is required

Under existing law, congressional approval is required for disposal of materials in the national and supplemental stockpiles except when the proposed disposal action is based on a determination that the material has become obsolescent for use in time of war.

The disposal of the quantity of lead covered by this bill is based on a determination that it is excess to stockpile requirements and not because it is obsolescent for use in time of war. Consequently, express congressional approval for the disposal is required.

The bill would also authorize an immediate start on the disposal of this material by waiving the statutory requirement for a 6-month waiting period after notice of the proposed disposal is published in the Federal Register.

Why disposal is proposed

The total inventory of lead in the national and supplemental stockpiles uncommitted as of October 31, 1971, was 1,136,706 short tons. The stockpile objective as of December 3, 1969, is 530,000 short tons, leaving an excess of 606,706 short tons. In addition to the amount of lead authorized for disposal by this bill, 31,317 short tons remain available for direct Government use under Public Law 89–9 and 77,389 short tons remain available for disposal under Public Law 91–46.

Information on lead

Some of the many uses of lead are in storage batteries, as cable coverings, in ammunition, solder, babbitt and bearing metals, type metals castings, die castings; in construction (piping, sheet, and caulking), in foil and in certain brasses and bronzes. It is also used in tetraethyl lead for gasoline, and in paints and pigments.

Lead is found the world over. Principal sources of mine production are Canada, Mexico, Peru, U.S.S.R., Australia, and the United States.

Method of disposal

The General Services Administration proposes to make the lead covered by this bill available for commercial sale over a period of years. The quantities and timing of disposals will be determined upon evaluation of previous sales and current market conditions. The method of disposal is set forth in section 2 of the bill which provides that, unless otherwise authorized by law, disposals may be made only after publicly advertising for bids, except when (1) the material is transferred to a Federal agency, (2) the Administrator of General Services determines that other methods of disposition are necessary to protect the United States against avoidable loss or to protect producers, processors, and consumers against avoidable disruption of their usual markets, or (3) sales are made pursuant to requests received from other Federal agencies in furtherance of authorized program objectives of such agencies.

FISCAL DATA

The average acquisition cost of the lead in the national and supplemental stockpiles was $288 per short ton. The present market value is about $290 per short ton of metal or 14½ cents per pound.

DISPOSAL OF METALLURGICAL GRADE CHROMITE

The bill (S. 773) to authorize the disposal of metallurgical grade chromite from the national stockpile and the supplemental stockpile was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services is hereby authorized to dispose of approximately one million three hundred and thirteen thousand six hundred short dry tons of metallurgical grade chromite (chromite ore equivalent) now held in the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h) and the supplemental stockpile established pursuant to section 104(b) of the Agricultural Trade Development and Assistance Act of 1954, 68 Stat. 456, as amended by 73 Stat. 607. Such disposition may be made without regard to the requirements of section 3 of the Strategic and Critical Materials Stock Piling Act: *Provided,* That the time and method of disposition shall be fixed with due regard to the protection of the United States against avoidable loss and the protection of producers, processors, and consumers against avoidable disruption of their usual markets.

SEC. 2. (a) Disposals of the materials covered by this Act may be made only after publicly advertising for bids, except as provided in subsection (b) of this section or as otherwise authorized by law. All bids may be rejected when it is in the public interest to do so.

(b) The material covered by this Act may be disposed of without advertising for bids if—

(1) the material is to be transferred to an agency of the United States;

(2) the Administrator determines that methods of disposal other than by advertising are necessary to protect the United States against avoidable loss or to protect producers, processors, and consumers against avoidable disruption of their usual markets; or

(3) sales are to be made pursuant to requests received from other agencies of the United States in furtherance of authorized program objectives of such agencies.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–698), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The proposed bill is a part of the legislative program of the General Services Administration for 1971. It would authorize the disposal of approximately 1,313,600 short dry tons of metallurgical grade chromite from the national stockpile and the supplemental stockpile and would waive the 6-month waiting period normally required before such disposal could be started.

EXPLANATION OF THE BILL

Why congressional action is required

Under existing law, congressional approval is required for disposal of materials in the national and supplemental stockpiles except when the proposed disposal action is based on a determination that the material has become obsolescent for use in time of war.

The proposed disposal of metallurgical grade chromite is based on a determination that the quantity of this material in the national and supplemental stockpiles is excess to requirements and not because the metallurgical grade chromite is obsolescent for use in time of war. Consequently, express congressional approval for the disposal is required.

Moreover, the bill would authorize an immediate start on the disposal of this material by waiving the statutory requirement for a 6-month waiting period after notice of the proposed disposal is published in the Federal Register.

Why disposal is proposed

The material to be disposed of is excess to stockpile needs. The total inventory of the material in the national and supplemental stockpiles as of October 31, 1970, was 5,390,373 short dry tons. The stockpile objective established March 4, 1970, is 3,100,000 short

dry tons, leaving an excess of 2,290,323 short dry tons, of which 978,000 short dry tons were previously authorized for disposal.

Information on metallurgical grade chromite

The primary use of metallurgical grade chromite is in the production of ferrochromium for addition to steel and to make other alloying agents. The addition of chrome to steel imparts qualities of hardness, tensile strength and resistance to heat and corrosion. The United States has no domestic supply of this material and the important sources of U.S. supply are the U.S.S.R., Turkey, and South Africa. Domestic consumption of metallurgical grade chromite ore by the metallurgical industry amounted to 898,230 short tons in 1969.

RHODESIAN ORE

At the time this measure was originally considered by the committee in April 1971, sanctions against Rhodesia precluded the importation of Rhodesian ore, formerly one of the principal sources. With the enactment of section 503, Public Law 92–156, the Treasury Department has granted a general license under the Rhodesian sanctions regulations authorizing imports of strategic and critical materials of Southern Rhodesian origin. In light of this, the committee believes that the release of metallurgical grade chromite from the Government stockpiles will not be detrimental to the interests of national defense.

Method of disposal

Section 2 of the bill sets forth the method of disposal of this material and reads as follows:

SEC. 2. (a) Disposals of the material covered by this Act may be made only after publicly advertising for bids, except as provided in subsection (2) of this section or as otherwise authorized by law. All bids may be rejected when it is in the public interest to do so.

(b) The material covered by this Act may be disposed of without advertising for bids if—

(1) the material is to be transferred to an agency of the United States;

(2) the Administrator determines that methods of disposal other than by advertising are necessary to protect the United States against avoidable loss or to protect producers, processors, and consumers against avoidable disruption of their usual markets; or

(3) sales are to be made pursuant to requests received from other agencies of the United States in furtherance of authorized program objectives of such agencies.

FISCAL DATA

The average acquisition cost of metallurgical grade chromite in the national and supplemental stockpiles was $46.82 per short dry ton for ore, $365.24 per short ton for high carbon ferrochromium, $453.52 per short ton for low carbon ferrochromium, and $324.21 per short ton for silicon ferrochromium. The current estimated market price for standard, commercial type metallurgical grade chromite ranges is $55 to $60 per short dry ton (chromium content) for ore, $500 per short ton (chromium content) for high carbon ferrochromium, $760 per short ton (chromium content) for low carbon ferrochromium, and $320 to $360 per short ton (chromium content) for silicon ferrochromium.

DISPOSAL OF NICKEL

The bill (S. 3086) to authorize the disposal of nickel from the national stockpile was considered, ordered to be engrossed for a third reading, read the third time, and passed as follows:

S. 3086

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services is hereby authorized to dispose of approximately thirty eight thousand eight hundred and seventy-six short tons of nickel now held in the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h). Such disposition may be made without regard to the requirements of section 3 of the Strategic and Critical Materials Stock Piling Act: *Provided,* That the time and method of disposition shall be fixed with due regard to the protection of the United States against avoidable loss and the protection of producers, processors, and consumers against avoidable disruption of their usual markets.

SEC. 2. (a) Disposals of the material covered by this Act may be made only after publicly advertising for bids, except as provided in subsection (b) of this section or as otherwise authorized by law. All bids may be rejected when it is in the public interest to do so.

(b) The material covered by this Act may be disposed of without advertising for bids if—

(1) the material is to be transferred to an agency of the United States;

(2) the Administrator determines that methods of disposal other than by advertising are necessary to protect the United States against avoidable loss or to protect producers, processors, and consumers against avoidable disruption of their usual markets; or

(3) sales are to be made pursuant to requests received from other agencies of the United States in furtherance of authorized program objectives of such agencies.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–699), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The proposed bill is part of the legislative program of the General Services Administration for 1971. It would authorize the disposal of approximately 38,876 short tons of nickel from the national stockpile and waive the 6-month waiting period normally required before such disposal could be started. The nickel covered by this bill is excess to stockpile requirements.

EXPLANATION OF THE BILL

Why congressional action is required

Under existing law, congressional approval is required for disposal of materials in the national and supplemental stockpiles except when the proposed disposal action is based on a determination that the material has become obsolescent for use in time of war.

The disposal of nickel is based on a determination that the quantity of the material in the national stockpile is excess to requirements and not because the material is obsolescent for use in time of war. A determination was made February 9, 1971, that nickel is no longer a stockpile requirement. Express congressional approval for the disposal is required.

The bill would also authorize an immediate start on the disposal of the nickel by waiving the statutory requirement for a 6-month waiting period after notice of the proposed disposal is published in the Federal Register.

Nickel is one of the most versatile of the alloying materials and its predominating use is as an alloy in the steel industry. Its principal applications are in making stainless steels, high temperature alloys, and monel metal. It is essential in war production for jet engines, aircraft frames, armor plate, electronics, and many other applications; also in magnets, electrical core alloys, and many electronic alloys. Electroplating usage is substantial.

There is no complete substitute for nickel. The nickel supply can be extended by using leaner alloys, reducing plating thicknesses, substituting chromium stainless or other steel when possible, and other such measures. Some interchange between alloys can be made in high temperature alloys, but only to a limited extent and generally at increased cost. Electrolytic manganese metal can be substituted for a part of the nickel content in certain stainless steels.

U.S. mine production of nickel in 1968 amounted to 17,294 short tons, nickel content of ore. In 1969, U.S. mine production was 17,056 tons and an estimated 18,000 tons in 1970. U.S. consumption of nickel was 159,306 tons in 1968, 141,737 tons in 1969, and estimated at 160,000 tons in 1970. Imports of nickel were 147,950 tons in 1968, 129,332 tons in 1969, and estimated at 150,000 tons in 1970. Principal import sources for metal are Canada, 87 percent; Norway, 11 percent; U.S.S.R., 1 percent, and others 1 percent.

Method of disposal

The method of disposal is set forth in section 2 of the bill and provides that, unless otherwise authorized by law, disposals may be made only after publicly advertising for bids, except when (1) the material is transferred to a Federal agency, (2) the Administrator of General Services determines that other methods of disposition are necessary to protect the United States against avoidable loss or to protect producers, processors, and consumers against avoidable disruption of their usual markets, or (3) sales are made pursuant to requests received from other Federal agencies in furtherance of authorized program objectives of such agencies.

In this instance, the General Services Administration has advised that the entire amount of nickel to be disposed of will be turned over to the U.S. Treasury.

FISCAL DATA

The average acquisition cost of nickel in the national stockpile was $1,162.28 per short ton. The current estimated market price for standard, commercial type nickel is $2,660 per short ton. Stockpile nickel may or may not be the same quality or grade as the material quoted above.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the acting minority leader seek recognition?

Mr. PACKWOOD. I do not.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma (Mr. HARRIS) is recognized for 15 minutes.

(The remarks Mr. HARRIS made at this point on the submission of Senate Resolution 282, dealing with the plight of minorities in Pakistan and Bangladesh, are printed in the RECORD under Submission of a Resolution.)

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Wisconsin is recognized for not to exceed 15 minutes.

(The remarks of Senator NELSON on the introduction of S. 3378, dealing with tax reform, and the ensuing discussion by Senators TUNNEY, MONDALE, KENNEDY, and MANSFIELD are printed in the section of the RECORD devoted to the transaction

of routine morning business under Statements on Introduced Bills and Joint Resolutions.)

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order there will now be a period for the transaction of routine morning business for not to exceed 30 minutes with a limitation of 3 minutes on each Senator being recognized.

SOUTHEAST ASIA

Mr. MANSFIELD. Mr. President, there has been a good deal of talk about certain issues of paramount importance at the present time, not the least of which has been the issue discussed this morning, the need for tax reform.

There are other issues, such as pollution, busing, the condition of the ghettos, crime, justice, drug control, and the like, all important. However, in my opinion, Mr. President, the most important issue now—and it has been for some years past—is the issue of our involvement in Southeast Asia.

It is brought to our attention because of recent events in Laos and Cambodia. According to the latest reports the Pathet Lao and the North Vietnamese are very close to Long Cheng, the CIA-sponsored base in southern Laos.

According to the latest reports the constitution of the Khmer Republic formerly known as Cambodia, in effect has been overthrown and the position of first responsibility has been taken by Lon Nol.

In Cambodia we are witnessing the folly of the American desire to export its political, economic, and social institutions to foreign lands where they do not need them, do not want them, and should not have them forced upon them.

Two years have elapsed since the overthrow of Prince Norodom Sihanouk and the result has been chaos. Two years later seven-tenths of Cambodia is under the control of hostile forces; and 2 years later, out of an estimated population of 7 million, one-third has become homeless. The net result has been nothing but destruction and ruin.

There is, of course, the makings of a constitutional republic, but when the constitution supposedly was to have been put into effect Lon Nol threw it to one side and said he would not recognize it. So now the constitution and the republic, except in name, have gone down the drain. Marshal Lon Nol dismissed the constitution as unacceptable. He dissolved the assembly and he has taken over complete control as a dictator in his pitiful country.

The South Vietnamese Army, the traditional enemy of Cambodians, is once again penetrating into Cambodia, to the extent of approximately 30,000 or 40,000 troops. Does anyone remember the invasion of Cambodia just about 2 years ago? Does anyone know what has happened since? Well, the North Vietnamese are back where they used to be, in the area of the Parrot's Beak. More of Cambodia is under the control of the North Vietnamese and their allies and more of Cambodia has been destroyed in the meantime.

So I would hope that those who are advocating continued aid to this small country, made up of kindly people—those in the Pentagon, those in the administration, those in the State Department, and those in the aid program—will think and think again, because this is not a prime example of the Nixon doctrine; it is anything but. It proves just how bankrupt the policy of our country has been allowed become, not only in Cambodia, but also in the rest of that part of the world.

Then there is Laos, another small country with a very kindly, peaceful people. What happened there? Hundreds of thousands of Laotians have been made homeless refugees and much of their country has been destroyed. A clandestine army under the control of the CIA has been operating; the overall commander is the proconsul, the U.S. Ambassador to Laos. He is the one who directs operations, tells where the strikes will be, whether they will be on the Plain of Jars or in the region of Long Cheng, the CIA subsidized base which is now under siege.

Much could be said about what happened in these two countries in addition to what happened and what is happening in Vietnam. But it is all a tragedy as far as this republic is concerned. It is the worst tragedy in our entire history.

I think if anything is going to be done it is going to be up to King Savang Vatthana in Laos, SRI, and Prince Norodom Sihanouk, now in exile in Peking, to put their talents and their efforts to use, so that a degree of stability and peace can be returned to their respective countries.

Let us take a look at the statistics. These are not the latest statistics but they are up to February 19, 1972. Combat wounded, Americans, 302,651; combat dead, Americans, 45,650; dead from other purposes, American, 10,077, for a total of 55,727 Americans dead as of February 19, 1972, and total American casualties as of the same date of 358,378.

As far as others are concerned, we find that the South Vietnamese have suffered death losses of 145,414 and other free world forces have suffered deaths of 4,838. It is estimated that the other side has suffered deaths of 796,458.

I ask unanimous consent to insert in the RECORD a table supplied by the Department of Defense, which details these casualties.

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

SOUTHEAST ASIA CASUALTIES STATISTICAL SUMMARY

The Department of Defense released today the cumulative casualties reported in connection with the conflict in Southeast Asia as of 19 February 1972.

Total U.S. deaths from action by hostile forces is the sum of the following categories: Killed in Action, Died of Wounds, Died While Missing, and Died While Captured. Lines 1 through 4 subdivide casualties by cause or category. Line 5 provides an additional breakdown of the same totals by environment (air or ground). Totals are cumulative from January 1, 1961 through February 19, 1972.

U.S. CASUALTIES RESULTING FROM ACTION BY HOSTILE FORCES

	Army	Navy [1]	Marine Corps	Air Force	Total
1. Killed	25,268	1,057	11,468	462	38,255
2. Wounded or injured:					
a. Died of wounds	3,504	141	1,449	44	5,138
b. Nonfatal wounds:					
Hospital care required	96,588	4,099	51,360	824	152,871
Hospital care not required	104,425	5,861	37,166	2,328	149,780
3. Missing:					
a. Died while missing	1,650	182	5	400	2,237
b. Returned to control	48	7	6	28	89
c. Current missing	245	114	78	575	1,012
4. Captured or interned:					
a. Died while captured or interned	15	----	3	2	20
b. Returned to control	57	3	5	6	71
c. Current captured or interned	73	146	25	245	489
5. Deaths:					
a. From aircraft accidents/incidents:					
Fixed wing	90	157	140	704	1,091
Helicopter	2,287	66	429	63	2,845
b. From ground action	28,060	1,157	12,356	141	41,714
Total deaths [2]	30,437	1,380	12,925	908	45,650

[1] Navy figures include Coast Guard.
[2] Sum of lines 1, 2a, 3a, and 4a.

COMBAT DEATHS FOR OTHER FORCES IN VIETNAM, SINCE JAN. 1, 1961

	RVNAF [3 4]	Other free world forces	Enemy [4]
6. Total deaths	145,414	4,838	796,458

U.S. CASUALTIES NOT THE RESULT OF HOSTILE ACTION, SINCE JAN. 1, 1961

	Army	Navy [1]	Marine Corps	Air Force	Total
7. Current missing	117	----	12	----	129
8. Deaths:					
a. From aircraft accidents/incidents:					
Fixed wing	254	176	45	281	756
Helicopter	1,803	52	242	18	2,115
b. From other causes	4,924	617	1,391	274	7,206
Total deaths	6,981	845	1,678	573	10,077

[3] Does not include paramilitary losses.
[4] Included in adjustments from previous periods and is subject to later adjustment in turn.

Mr. MANSFIELD. Mr. President, if we add all these deaths together, on our side and on the other side, the figure is in excess of 1 million. Furthermore, we have expended in Southeast Asia at least 2½ times the bomb tonnage used in the Second World War in both the Pacific and European theaters, as well as in the Korean war, and the end is not in sight. The bombings are continuing and the number of POW's is increasing, as well as the number missing in action.

I want to give the President credit for drawing down the number of U.S. troops in Vietnam, and for that matter in Thailand, as well.

The number at the moment, I understand, is 108,000, roughly, but by the first of May that is supposed to go down to 69,000. I have no doubt but that it will and around that time the President will very likely announce a further reduction.

But the war is continuing. No progress is being made in Paris, and no end to the war is in sight. I would hope that despite these draw-downs in troop personnel in the Far East, in South Vietnam, in Thailand, in the South China Sea, as well as in the Pacific and the Far East and elsewhere, we would reach the stage shortly when we would be able to withdraw lock, stock, and barrel every American from Vietnam, from Laos, from Cambodia, and from Thailand.

Mr. President, I would hope, in view of the impasse which has been reached in the negotiations in Paris, that the President would consider most seriously setting a date certain, an actual date tied only to the release of the U.S. prisoners of war and the recoverable missing in action.

I would hope that at that time, and on the basis of that date, if this proposal is advanced, we would recognize the fact that the future of Vietnam will be determined not by us, but by the Vietnamese, North and South, themselves. It is their country, whether it is divided into two or three parts or is whole in one. It is their future. It is they who must determine under what conditions they will live, and it is not our responsibility.

South Vietnam has an army of 1,100,000 men at the present time, and reserve forces—paramilitary, militia, and the like—of about 550,000. It has one of the largest armies in the world. It has one of the best equipped navies in the world. It has been subsidized and supported and armed by this country for the last 17 years.

I would hope that we would not forget what is going on in South Vietnam, what is happening to our sons, our brothers, our POW's, who are increasing in number, and not be sidetracked by these other issues, which, while important, are not of the immediacy of the problem which confronts this Nation in South Vietnam, in Laos, in Cambodia, and in Thailand.

This is a real American tragedy, and it has lasted too long. It should be brought to an end, and I hope the suggestion I have made will be given some consideration downtown.

I want to repeat that I recognize and approve of what the President has done in drawing down the numbers from about 550,000 to 108,000 today, down to 69,000 by May 1, and very likely a further reduction beyond that time; but we cannot put our heads in the sand. We cannot be satisfied with just a drawing down in U.S. troops. We cannot be satisfied with a diminution in the numbers of casualties, dead and wounded. And we cannot be satisfied with the fact that, instead of the POW's being reduced in number, and recoverable missing in actions being reduced in number, they are, contrariwise, being increased in number.

Therefore, I hope the proposal I have made will receive consideration. I do not intend to forget that we are involved in a misbegotten, tragic war in Southeast Asia, an area in which we never have had, and do not now have, any vital interest. And the sooner we liquidate it, on a lock, stock, and barrel basis, the better off this Nation will be, and the more possible it will be for us to pay less attention to overseas and to face up to our own difficulties here at home.

We have only so many people, probably 208 million at the present time. We have only so much in the way of resources. Times have changed, and while there may—and I emphasize the word "may"—have been a need, following the Second World War, for this country to be a world policeman, that need has long ago vanished.

So let us live in today and look to tomorrow, and let us divest ourselves of policies and mistakes of the past, which bring nothing but ruin, nothing but death and destruction, and nothing but huge outlays to this Republic.

Mr. President, I ask unanimous consent that an article by Mr. David Brinkley, published in the Boston Globe of the 7th of this month, entitled "Vietnam * * * Biggest Blunder in U.S. History * * * the Biggest," an article in U.S. News & World Report under date of January 3, 1972; and an editorial carried in the Philadelphia Inquirer of March 21, 1972, be incorporated in the RECORD at this point; but before the Chair rules, may I say that those who study the figures in the U.S. News & World Report article should keep in mind that considerable changes have occurred in the drawdown of U.S. troops, a further decline in Southeast Asia, in Latin America, and in other areas, except for Western Europe.

So with that proviso, Mr. President, I renew my request.

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

[From the Boston Globe, Mar. 7, 1972]

VIETNAM . . . BIGGEST BLUNDER IN U.S. HISTORY . . . THE BIGGEST

(By David Brinkley)

(David Brinkley made the following commentary March 2 (David Brinkley's Journal) during John Chancellor's NBC news program (Ch. 4)).

The Senate voted to raise the price of gold—to make official what had happened already—the devaluation of the dollar. Meaning that in relation to other currencies the dollar is worth less.

To a great extent it's one more side effect of the Vietnam War. One of many. The others are familiar:

An inflation that already made the dollar worth less, even before it was devalued.

The loss of about 50,000 young Americans and the wounding of a quarter of a million more.

The killing of hundreds of thousands of Vietnamese women and children and the physical devastation of their country.

The waste of far more than $100 billion of the American taxpayers' money that would have been spent on something useful. Plus another $100 billion added to the Federal debt.

Serious damage to the morale and discipline of the American armed forces themselves, not to speak of young soldiers hooked on Vietnamese heroin.

Severe disorders in the United States, riots and killing, anger and alienation of a generation of young Americans, more hostility in a country already having too much.

A reduced public confidence in their political system.

Plus My Lai, draft evaders, profiteering and a great deal more.

All of it taken together, make the Vietnam War the biggest blunder in American history. The biggest.

We build monuments to our successors. As a reminder in the future, we might build a monument to this, a historic blunder.

They might also put a speaker's platform on it and require that any future political leader anxious to join other countries warmongers make his speeches from this platform. To persuade anybody, a speech from that platform would have to be pretty good.

[From the U.S. News & World Report, Jan. 3, 1972]

U.S. FORCES ABROAD—BIGGEST DROP IN 16 YEARS

At the turn of a new year for U.S. servicemen stationed overseas, this fact stands out: Continuing massive withdrawals have cut, nearly by half, the number of Americans based abroad at the height of the Vietnam war—from 1.3 million in 1968 to 781,000 now.

In 1971 alone, the number of GI's abroad was reduced more than 220,000—the sharpest one-year drop in 16 years.

As a result, there are fewer American troops abroad than at any time in the past six years.

These sharp cutbacks reflect not only the winding down of the U.S. ground role in Vietnam, but also the closing of overseas bases in line with the "Nixon Doctrine" of emphasizing material aid rather than troops for U.S. allies.

Even so, about a third of America's 2.6 million men in uniform still are stationed in foreign lands or on ships patrolling foreign waters as 1972 gets under way.

As the map and tables on these pages show, the bulk of American servicemen overseas are based either in Europe or Southeast Asia. The tables also indicate the changing pattern of U.S. strength abroad. Area by area, these are the main shifts that have occurred in the past year:

(Maps and tables not reproduced in the RECORD.)

In South Vietnam, U.S. military manpower was cut by half during the year, down 172,700 from a year ago to 171,000 today. The total is 363,000 below what it was when the reductions began. It is to go down to 139,000 by February 1 and could be down to 45,000 by next autumn, depending upon the level of enemy activity.

In nearby Thailand, where much of the war's air support is based, U.S. withdrawals totaled 6,400 men in '71.

At sea off the Vietnamese coast, one U.S. aircraft carrier has been moved out, leaving only one still on station at all times in the war zone. Along with the transfer of other U.S. naval vessels to the Vietnamese, this shift has resulted in pulling back about 6,000 American sailors, with 13,000 remaining in the Vietnam area.

LONE DIVISION LEFT IN KOREA

All told, winding down of the war accounts for pulling back about 185,000 servicemen during the year. But thousands more have been withdrawn from other parts of the world, for other reasons.

In South Korea, for instance, increased strength of that U.S. ally has resulted in a pullback of 9,000 troops from the American forces based there, including one of the two Army divisions long stationed in Korea. This cuts U.S. strength there from a high of 64,000 men at the time of the *Pueblo* crisis in early 1968 to 43,000 now.

In the Philippines, American strength dropped during the year by about 2,000 men, to a current level of 18,000.

In Japan, where the need for U.S. military aid also has declined, about 9,000 American servicemen were pulled out during the year, leaving 30,000 U.S. airmen and sailors based in that country.

On the two big Pacific islands bases, there have been other major pullbacks.

U.S. troop strength declined by 7,500 on Okinawa during the year, to a level of 45,000, principally because of cuts in the Marine and Air Force units stationed there. And another 4,000 servicemen were withdrawn from Guam, a U.S. possession, leaving about 10,000 men still assigned, mainly to the Air Force bomber base or the Navy Polaris submarine base there.

Elsewhere in the Pacific, the Seventh Fleet has kept at about the same strength level, roughly 52,000 men.

SOME TOKEN REDUCTIONS

In Europe and the Mediterranean, meanwhile, token cuts were made and major cuts discussed during the year. Biggest withdrawal thus far has been from West Germany, with 5,000 GI's returned to the United States. But this still leaves 215,000 servicemen in Germany—the largest body of U.S. troops in one country overseas.

U.S. troop strength, officially reported, has remained constant in Britain, Spain, Italy and Greece. It has actually increased by 1,000 in Belgium, as a result of a beefing up at North Atlantic Treaty Organization headquarters near Brussels.

Despite strong budgetary pressures, the U.S. Sixth Fleet, stationed in the Mediterranean, has remained at a strength of 21,000 men, operating a force of between 35 and 45 warships over the past year.

In India, a small American "listening post" was disclosed during the year, apparently established to monitor the activities in Communist China and possibly to replace the communications bases that the United States once maintained in Pakistan.

Defense Department officials will say only that the number of American servicemen now manning this installation is "well under 1,000 men."

In other places overseas, smaller troop withdrawals have taken place during the year for a variety of reasons. U.S. forces stationed in the Panama Canal Zone, for instance, were pared down from 12,000 to 11,000 men. American troops based on Guantánamo, in Castro's Cuba, were reduced in strength from 4,000 to 3,000, those in Puerto Rico from 8,000 to 6,000.

In addition, troops manning a U.S. communications base in Ethiopia were trimmed from 1,600 to 1,500. And U.S. airmen stationed in Morocco have been reduced in number from 2,000 to 1,700.

There have been some small increases in troop strength at a few U.S. bases overseas during the year—principally the new American naval bases under construction in Australia and on the tiny island of Diego Garcia in the Indian Ocean.

Despite the massive net withdrawal of U.S. troops from overseas stations in 1971, American military force abroad remains stronger by about 200,000 men than it was before the Vietnam-war build-up.

Compared with the 781,000 GI's overseas now, the United States in mid-1964 maintained 583,000 servicemen abroad—of whom 440,000 were shore-based and 143,000 were aboard naval ships at sea.

FOR THE FUTURE

The outlook now, defense officials say, is for U.S. strength overseas to level off and remain fairly constant for the next few years.

Troop withdrawals from Vietnam are expected to continue at about their present pace in coming months, arriving at a residual force of 45,000 men—possibly fewer. U.S. strength in Thailand, nearly all of it devoted to air support, is expected to hold at about 25,000 to 30,000 men over the two years just ahead.

Massive cutbacks could be in the cards for Okinawa and Japan, however, when the former reverts to Japanese rule and Tokyo takes on an increased role in its own defense.

In the Middle East area, the Sixth Fleet is expected to remain at close to current strength, despite some congressional pressure to beef it up to offset the growing Russian presence in the Eastern Mediterranean.

Cutbacks in U.S. forces based in Europe will continue to be urged in Congress. But defense officials expect little or no change in the present American strength assigned to NATO, barring agreement with the Russians on mutual and balanced force reductions in Europe.

INDIAN OCEAN PLANS

An increased U.S. presence in the Indian Ocean area will be evident, in turn, when the planned bases in Australia and Diego Garcia are fully manned. The Navy also has been studying a shift in part of the Seventh Fleet to patrol off the East African coast.

Some Pentagon authorities, in fact, say that the U.S. naval force in the Indian Ocean area could number as many as 10,000 men over the next five years—depending upon a go-ahead from the White House.

Over all, military sources report that the prospect over the next two years is for a very gradual further reduction in U.S. military strength overseas. Withdrawals could be stepped up only if a major agreement on force levels is reached with the Soviet Union—or quickly reversed if the President responds to a new emergency in the Middle East or elsewhere.

[The Philadelphia Inquirer, Mar. 21, 1972]

AGAIN, THE LESSON IS CLEAR: UNITED STATES CAN'T REMAKE THE WORLD

Once again, this time in Cambodia, we are witnessing the folly of the American urge to export its political, economic and social institutions to foreign lands.

Two years have now passed since Marshal Lon Nol took control of Cambodia in the name of progress and with the material and moral support of the United States. In those two years, he appealed for military aid against Communist insurgence, received it in the form of more than 30,000 American and 40,000 South Vietnamese troops, later withdrawn, and renamed Cambodia the Khmer Republic.

In that time also, work has been going on in the delicate business of fashioning a constitution. With the work almost complete, the Constituent Assembly announced that the new basic document they proposed would make the Khmer Republic a republic indeed—with a National Assembly holding real power, along with a president and premier.

Marshal Lon Nol promptly dismissed the constitution as unacceptable, disssolved the Assembly, and put out enough armed guards to assure compliance. He declared himself president, commander in chief of the armed forces and premier.

Thus any hint of democracy—the rationalization for United States intervention and endless tinkering with Khmer's domestic affairs—disappeared.

And soon after that, a new offensive against the Communist menace the world has been hearing about for a generation mobilized 40,000 South Vietnamese troops at the Khmer border. Thousands invaded U.S. B–52s bombed day after day. "We are saturating the area," a senior South Vietnamese officer said of the new incursion. "It is our purpose to destroy everything we can."

They would do well to work quickly while there is something left to destroy in what once was a slow-paced, peaceful and majestically beautiful country. In the last two years, the effect of American, and American-sponsored, policy has been to make homeless an estimated one third of the Khmer population of 7 million and to provide rampant corruption by a handful of the ruling and military elite—many of whom are fleeing now to safer bases with their pelf.

For all our dismay with Communism or other totalitarian forms of government, it is hard to argue that any indigenous administration could come close to producing the misery and slaughter which is the daily life in most of Indochina today.

But small chance, in Vietnam or in the Khmer non-republic, so long as the present U.S. Asian policy continues. For U.S. aid to the Lon Nol regime is flowing in at a rate of more than $300 million a year, and the Nixon Administration in its latest military aid requesting to Congress, shows no sign of reversing that policy.

To the contrary. The powerful voices in the Pentagon and other bureacracies and in Congress—which sponsored America's Vietnamese intervention are still being heard. Their bankrupt argument that U.S. armed might and economic force can refashion an Asian nation into a mini-America holds sway today. As a matter of fact, in a view at least not publicly recanted, President Nixon said last fall that "Cambodia is the Nixon doctrine in its purest form."

The results suggest, however, that all to be found in pure form there is the folly of a fundamentally false premise.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

LIST OF CONTRACT AWARD DATES

A letter from the Assistant Secretary of Defense, transmitting, pursuant to law, a list of contract award dates, for the period March 15–June 15, 1972 (with an accompanying paper); to the Committee on Armed Services.

STATISTICAL SUPPLEMENT, STOCKPILE REPORT

A letter from the Director, Office of Emergency Preparedness, Executive Office of the President, transmitting, pursuant to law, the Statistical Supplement, Stockpile Report to the Congress, for the period ended December 31, 1971 (with an accompanying document); to the Committee on Armed Services.

PROPOSED AMENDMENT OF FEDERAL CIVIL DEFENSE ACT OF 1950

A letter from the Secretary of the Army, transmitting a draft of proposed legislation to further amend the Federal Civil Defense Act of 1950, as amended, to extend the expiration date of certain authorities thereunder, and for other purposes (with an accompanying paper); to the Committee on Armed Services.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Extensive Use of Military Personnel in Civilian-Type Positions", Department of Defense, dated March 20, 1972 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Improvements Needed in Manpower Training at The Boston Skills Center", Department of Labor, Department of Health, Education, and Welfare, dated March 21, 1972 (with an accompanying report); to the Committee on Governemnt Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "More Effective Use Could be Made of Program Resources to Alleviate Unemployment", Economic Development Administration, Department of Commerce (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Improved Use of Cargo Space on Ammunition Ships by Better Planning", Department of Defense, dated March 21, 1972 (with an accompanying report); to the Committee on Government Operations.

PROPOSED AMENDMENT OF THE TRADEMARK ACT

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the Trademark Act to extend the time for filing oppositions, to eliminate the requirement for filing reasons of appeal in the Patent Office, and to provide for awarding attorney fees (with accompanying papers); to the Committee on the Judiciary.

CORRECTION OF REPORT RELATING TO GS–16, GS–17, AND GS–18 POSITIONS

A letter from the Chairman, U.S. Civil Service Commission, transmitting, for the information of the Senate, a correction of the report relating to GS–16, GS–17, and GS–18 positions, submitted under date of January 31, 1972 (with an accompanying paper); to the Committee on Post Office and Civil Service.

PROSPECTUS FOR ALTERATIONS AT THE AGRICULTURE ADMINISTRATION BUILDING

A letter from the Acting Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for alterations at the Agriculture Administration Building in Washington, D.C. (with accompanying papers); to the Committee on Public Works.

PROPOSED ACTION ACT OF 1972

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that a communication from ACTION relative to the Peace Corps, Volunteers in Service to America, and National Older Americans Volunteer program be jointly referred to the Committees on Foreign Relations and Labor and Public Welfare for their consideration of the legislative matters falling within their respective jurisdictions.

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

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MANSFIELD (for Mr. Jackson), from the Committee on Interior and Insular Affairs, without amendment:

S.J. Res. 193. Joint resolution to redesignate the area in the State of Florida known as Cape Kennedy as Cape Canaveral (Rept. No. 92–704).

By Mr. BYRD of West Virginia (for Mr. BIBLE), from the Committee on Interior and Insular Affairs, with an amendment:

S. 3153. A bill to amend the act of January 8, 1971 (Public Law 91–660; Stat. 1967), an act to provide for the establishment of the Gulf Islands National Seashore in the States of Florida and Mississippi, for the recognition of certain historic values at Fort San Carlos, Fort Redoubt, Fort Barrancas, and Fort Pickens in Florida, and Fort Massachusetts in Mississippi, and for other purposes (Rept. No. 92–705).

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. NELSON (for himself, Mr. HART, Mr. KENNEDY, Mr. MONDALE, Mr. CHURCH, Mr. EAGLETON, Mr. HARRIS, Mr. HUGHES, Mr. HUMPHREY, Mr. MCGOVERN, Mr. METCALF, and Mr. TUNNEY):

S. 3378. A bill to raise needed revenues by gearing the income tax more closely to an individual's ability to pay, by broadening the income tax base of individuals and corporations, by integrating the gift and estate taxes, and by otherwise reforming the income, estate, and gift tax provisions. Referred to the Committee on Finance.

By Mr. SPONG (for himself and Mr. BYRD of Virginia):

S. 3379. A bill to amend the act entitled "An act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system." Referred to the Committee on the District of Columbia.

By Mr. MOSS:

S. 3380. A bill to permit immediate retirement of certain Federal employees. Referred to the Committee on Post Office and Civil Service.

By Mr. MONTOYA (for himself, Mr. RANDOLPH, and Mr. COOPER):

S. 3381. A bill to establish a national development program through public works investment. Referred to the Committee on Public Works.

By Mr. JAVITS (for himself and Mr. WILLIAMS, Mr. BEALL, Mr. CRANSTON, Mr. PEARSON, Mr. PELL, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. STEVENS, Mr. STEVENSON, and Mr. TUNNEY):

S. 3382. A bill to amend the Elementary and Secondary Education Act of 1965. Referred to the Committee on Labor and Public Welfare.

By Mr. THURMOND:

S. 3383. A bill to amend the Internal Revenue Code of 1954 to encourage the use of recycled oil. Referred to the Committee on Finance.

By Mr. MANSFIELD (for Mr. JACKSON) (for himself and Mr. ALLOTT) (by request):

S. 3384. A bill to amend the Water Resources Planning Act to authorize increased appropriations. Referred to the Committee on Interior and Insular Affairs.

By Mr. NELSON:

S. 3385. A bill to provide for the free entry of five carillon bells for the use of the University of Wisconsin, Madison, Wis. Referred to the Committee on Finance.

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

S. 3386. A bill to amend the Labor Management Relations Act, 1947, to permit employee contributions to jointly administered trust funds established by labor organizations to defray costs of legal services. Referred to the Committee on Labor and Public Welfare.

By Mr. BEALL:

S. 3387. A bill for the relief of Lt. Comdr. Ralph Wayne Tobias, U.S. Navy (retired). Referred to the Committee on the Judiciary.

By Mr. HRUSKA:

S. 3388. A bill to impose a moratorium on new and additional student transportation. Referred to the Committee on the Judiciary.

By Mr. FULBRIGHT (by request):

S. 3389. A bill to amend section 304, title III of the International Claims Settlement Act of 1949, as amended, to provide for additional claims for payment out of the Italian Claims Fund. Referred to the Committee on Foreign Relations.

S. 3390. A bill to amend the Foreign Assistance Act of 1961, and for other purposes. Referred to the Committee on Foreign Relations.

By Mr. BEALL (for himself, Mr. JAVITS, Mr. TAFT, Mr. PACKWOOD, and Mr. SCHWEIKER):

S. 3391. A bill to provide for the continuation of programs authorized under the Older Americans Act of 1965, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. CRANSTON (for himself, Mr. DOMINICK, Mr. EAGLETON, Mr. WILLIAMS, Mr. GRAVEL, Mr. MANSFIELD, Mr. STEVENS, and Mr. TUNNEY):

S. 3392. A bill to amend the National Science Foundation Act of 1950 so as to provide for a program relating to earthquakes. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON (for himself, Mr. HART, Mr. KENNEDY, Mr. MONDALE, Mr. CHURCH, Mr. EAGLETON, Mr. HARRIS, Mr. HUGHES, Mr. HUMPHREY, Mr. MCGOVERN, Mr. METCALF, and Mr. TUNNEY):

S. 3378. A bill to raise needed revenues by gearing the income tax more closely to an individual's ability to pay, by broadening the income tax base of individuals and corporations, by integrating the gift and estate taxes, and by otherwise reforming the income, estate, and gift tax provisions. Referred to the Committee on Finance.

TAX REFORM ACT OF 1972

Mr. NELSON. Mr. President, on behalf of Senators CHURCH, EAGLETON, HARRIS, HART, HUGHES, HUMPHREY, KENNEDY, MCGOVERN, METCALF, MONDALE, TUNNEY, and myself I am introducing comprehensive legislation to reform the Federal tax system. I send to the desk for appropriate reference this tax reform bill.

Mr. President, tax reform is an urgent national priority. Our system for raising Government revenues contains grave inequities; and the average taxpayer knows it.

The rich frequently pay less than the poor; many of the very rich pay nothing at all. And the average wage-earner carries a disproportionate share of the burden.

Nowhere in our society is there a greater gap between promise and reality.

The 16th amendment to the Constitution empowered Congress to levy taxes on "incomes, from whatever source derived." In fact, some income is taxed at preferential rates, some is not taxed at all, and some does not even have to be reported to the Government.

Our tax system is supposed to be progressive—to tax people according to their ability to pay. But the opposite is the case. Figures reported by the chief of the Census Bureau's Population Division

show that in 1968, the middle-income worker making $8,000 to $10,000 paid Federal, State, and local taxes at the same rate as the worker earning $25,000 to $50,000. And the man with less than $2,000 is taxed at about the same rate as the man making over $50,000.

This result is unfair, discriminatory, and totally indefensible as a tax policy.

And it has been getting worse.

On three separate occasions over the last 8 years, we have reduced one or the other of our two progressive taxes—the personal income tax and the corporate profits tax. The Revenue Act of 1971 alone reduced corporate tax rates by 15 percent—the largest tax cut for the corporations in American history. Meanwhile, there have been dramatic increases in such regressive levies as the social security tax.

One of the more oppressive taxes—the local property tax—has now risen about as far as it can go. Increasing local government costs have forced it up so that now it places an excessive burden on millions of Americans—many of whom live on fixed incomes.

The overall result is a tax system which takes more from those who can least afford it, and less from those who can.

Most people now agree that something must be done about taxes. In a recent Harris poll, 69 percent said they could sympathize with a "taxpayers' revolt." Eighty-two percent felt that "the big tax burden falls on the little man in this country today." Sixty-four percent agreed that taxes have reached the breaking point.

Reform is long overdue.

Over the years privileged financial sanctuaries, tax preferences, and loopholes have been written into the tax structure under various guises. Sometimes they have been justified as serving some important social purpose or promoting the general economic welfare. More often than not they simply reflect the general tendency of the political and economic power structure within any society to design laws that best serve the interests of that privileged group.

Anyone who has ever given serious thought to reforming the tax system is well aware that it is a knotty, difficult political exercise precisely because the most powerful economic interest groups are the beneficiaries of the great bounty that flows from the inequities. They represent a potent, organized, cohesive political force which has not been counter balanced in the past by any significant political pressure from the vast, unorganized silent majority. These privileged classes of taxpayers and the various associated groups of peripheral beneficiaries represent, in fact, the very heart of the political power structure in our society.

There is nothing unusual or mysterious about it. The establishment in every society has always legislated to protect and enhance the interests and welfare of the power structure. This is true regardless of the ideological nature of the political system.

Now, however, a great change is rapidly taking place all across the country. Powerful forces for tax reform are coalescing into a potent constituency for the first time.

It is happening, as most things seem to happen in this country, because of a crisis. States and local governments are in serious fiscal trouble. Governors and mayors are pleading for financial assistance. The burdens of the property tax and financial support of the school system have become a major topic of discussion at the national level for the first time. And, finally, tax sharing has become an important part of the political dialog of the country.

The President, presidential candidates, and political leaders of both parties have brought the issue up front for discussion with reform proposals of various kinds. In a message to the Congress in September of last year, the President said he would send a tax reform proposal to the Congress this year. The President and his Cabinet members have made it clear that the tax reform they are talking about is in the form of a national sales tax—called a value-added tax—to be used to relieve the property tax. Secretaries Connally and Richardson both defended the value-added tax in recent testimony before the Finance Committee. Secretary Richardson argued that a value added tax would not be an additional tax because it would be used only as a replacement for the property tax which is simply another regressive tax.

The value-added tax would add substantially to the already onerous tax burden on lower- and middle-income people. It would be inflationary since the new tax would be added to the price of the product.

But whatever its merits or shortcomings, this is not the kind of tax reform that tax experts, Members of Congress, the press, and the public have been talking about. Certainly, as suggested by the President, property tax relief on some equitable basis is one of many plausible methods of revenue sharing. However, it is hardly defensible to levy a sales tax to relieve property taxes while leaving massive amounts of privileged income undertaxed or not taxed at all. A value-added tax may be a defensible proposal at some time for some purpose, but it is not a defensible proposal at this time for this purpose.

Two years ago, the Congress enacted the Tax Reform Act of 1969. This was a beginning, but it was no more than that. Many of the worst tax loopholes were left untouched. Today, our tax system is widely regarded as a national disgrace.

As a substantial step toward reform, I am proposing the Tax Reform Act of 1972, a comprehensive program to close tax loopholes.

This proposal will give dramatic and critically needed financial assistance to State and local governments. The total amount in tax sharing would be $17 billion—$16 billion for education and/or property tax relief plus $1 billion additional aid to States and municipalities by providing that the Federal Government will pay 50 percent of the interest cost for State and municipal bonds.

First. This legislation would raise about $16 billion a year in new revenue, to be distributed to State and local governments. This does not include the above-mentioned $1 billion. This money could be distributed by a number of different formulas. This proposal is that the money be used directly to reduce property taxes, or in the alternative, to pay part of the costs of local education. This method of distribution follows the lines of the proposal under consideration by the President, although the revenue source is different.

Second. The new funds should be distributed to the States based on a formula which gives each State an amount proportional to its share of the population of the Nation. A breakdown of this distribution by States is attached. Under this formula, Wisconsin would receive $347 million annually.

Third. Distribution of these funds for education would pay almost 40 percent of the total State and local costs of primary and secondary education nationwide, and about 34 percent of these costs in Wisconsin. These percentages are based on figures for the current school year. This would result in substantial property tax relief.

Fourth. Or, if these funds were used directly for property tax relief, it would have paid for 44 percent of total property taxes on all homes, farms, and businesses, nationwide in 1971. In Wisconsin, property taxes could have been reduced 30 to 34 percent across the board—the percentage reduction is less because Wisconsin relies more heavily on this tax than the average State.

Fifth. Finally, if we consider only that portion of the property tax that goes to finance the local schools, the $16 billion of new revenues would have paid for 87 percent of that cost nationwide, and 50 percent in Wisconsin.

Note: figures for 1971 are used since that is the most recent year for which they are available.

The tax changes proposed here would constitute significant reform. They would translate the tax sharing rhetoric of the administration into meaningful reality. Any amount of tax sharing significantly less than $16 billion is merely a temporizing ritual rather than a fundamental attack on the problem.

Obviously some of the provisions of this bill will prove controversial. Supporters of reform and cosponsors of this bill are not equally committed to every detail of each provision, but it is recognized that substantial reform accompanied by massive financial assistance to State and local governments is an important national priority.

The test question is whether when considered as a whole, the reforms proposed are a substantial improvement over the present situation. By that test, the answer is overwhelmingly in the affirmative.

Although it will be strongly attacked by those with a vested interest in the present tax structure, this is not a radical program. It represents a compromise between what would be an ideal tax reform and what it may be possible to accomplish at this stage in history.

It does not close every loophole. Rather, it concentrates on those provisions which

are most unfair, and on which there is widest agreement among the experts. It incorporates a number of the recommendations made by the Treasury Department in its comprehensive "Tax Reform Studies and Proposals of December 1968." It has benefited from the assistance and advice of some of our most eminent tax lawyers and economists.

One area that most of the tax experts agree is badly in need of reform is capital gains.

Under present law, the Federal Government taxes only 50 percent of any increase in the value of property—such as real estate or corporate stock—held over 6 months. The other 50 percent is tax-free.

This one provision removes about $16 billion from Federal taxation. It costs the Federal Treasury almost $8 billion a year in lost revenue.

Nothing could be more unfair. The average worker who must live off his hard-earned wages is taxed at regular income tax rates. But the rich man can invest his wealth, and then simply wait—without lifting a finger—until it has increased in value. At that point, 50 percent of his gain goes tax-free.

Defenders of capital gains like to invoke the myth of the small investor who supposedly would be hard hit if this tax preference were to end.

In fact, only one taxpayer in 12 receives any capital gains. Only 5 percent of those earning under $10,000 receive any; and this group receives only a little over 1 percent of the total tax giveaway. Meanwhile, 88 percent goes to families earning over $25,000. Over half goes to people earning over $100,000.

But that is not the end of it. Many capital gains beneficiaries pay no tax at all. This is because no capital gains tax is due on property held until death.

Suppose a taxpayer bought $5 million of stock in 1950. The company has flourished, and the stock is now worth $15 million. If he sells the stock, the taxpayer pays the capital gains tax on the $10 million increase in value. But if he holds the stock until he dies, neither he nor his heirs ever pays any capital gains tax on the $10 million.

The best long-term solution to the capital gains loophole is to treat these gains like other income. Indeed, I will shortly introduce legislation to do just this. The investor would pay tax on 50 percent of the first $10,000 of gains in any one year, but above that he would pay tax on the whole gain. This proposal will be introduced and considered separately from the tax reform package because it is a much more dramatic reform and is not as widely supported as the other provisions of this bill.

But the proposal here is not so broad. It closes the major loophole in the transfer of property at death. It provides that capital gains shall be taxed at death as proposed both by President Kennedy and by the Treasury Department in its comprehensive study of 1968. This alone would add $2 billion to Federal revenues.

Another serious loophole is the oil depletion allowance. This allows oil men to receive 22 percent of their income tax free.

In theory, the oil man gets the depletion allowance because his well is being "used up," in the same way that a businessman receives depreciation as his plant and machinery are wearing out.

There is one big difference, however. A businessman can claim depreciation on a machine up to the amount that it cost him. But the oil man can receive the depletion allowance year after year as long as the well is producing.

The result is hardly surprising. According to Treasury estimates, the cost of the average oil well was recovered 19 times in 1966. Meanwhile, the 20 top oil companies were making profits of $4¾ billion and paying taxes at the rate of only 8½ percent.

There is no good reason why the oil industry should receive this special treatment. Indeed, the Consad study prepared for the Treasury in 1968 concluded that total elimination of percentage depletion would have a minimal effect on our oil reserves.

However, the Tax Reform Act of 1972 follows the more modest proposal made by President Truman in 1950: it would simply reduce percentage depletion to 15 percent, thus saving the Treasury over $400 million a year.

But not all the tax loopholes are as simple as capital gains and oil depletion. Some of them actually serve a socially useful purpose.

Consider, for instance, the tax exemptions for State and local government bonds.

Because the interest from these bonds is tax free, investors are willing to buy them at lower interest rates. As a result, hard-pressed local governments can raise funds at a relatively low cost with a saving to the local taxpayer.

This is one loophole that appears to make sense.

But the appearance is misleading. In fact, this is an extremely wasteful way of helping State and local governments. And the beneficiaries of this waste—as usual—are the very rich.

Here is how it works. Suppose corporate bonds are paying 7 percent, while tax-free local government bonds pay 4 percent.

For the average wage-earner, his $100 corporate bond yields him $7. He pays $1.30 in Federal taxes, but the remainder—$5.70—is still more than the $4 he could get from tax-exempt bonds. However, for the millionaire—in the 70 percent tax bracket—the $7 corporate bond dividend really means $2.10 in income, because $4.90 goes to the Federal Government in taxes. Obviously, he will prefer the $4 dividend, tax-free.

In short, here is another tax give-away that benefits only the rich.

True, this provision saves local governments about $1 billion in interest costs. But the Federal Treasury loses about $2 billion in tax income. The difference is about $1 billion, of which over 80 percent goes to the richest one percent of the population.

The proposal in this bill allows local authorities the choice of continuing to issue tax-exempt bonds, or of issuing taxable bonds and having the Federal Government pay 50 percent of the interest cost. Since the 50 percent interest subsidy is worth much more than the lower interest cost resulting from the tax exemption, State and local governments will have a strong incentive to issue taxable bonds. At the same time, the new provision in no way violates their freedom of choice.

A similar proposal was passed by the House in 1969.

The effect of this change is to give an additional $1 billion of Federal funds—now benefitting investors—to State and local governments. Indeed, combined with the $16 billion that would be returned directly to State and local governments under my proposal, this in effect makes a total of $17 billion that could be used to finance the local schools, or pay for property tax relief.

Numerous other tax changes are also needed.

We should substitute a $150 credit for the $750 personal exemption. At present every taxpayer gets a $750 deduction for each member of his family.

The problem is that this deduction is worth $105 to the low-income taxpayer and $525 to the man in the 70-percent bracket. A $150 credit would put everyone on the same footing, give a sizable tax cut to most lower- and middle-income families, and raise $1.9 billion for the Federal Treasury.

We should repeal the accelerated depreciation system—ADR. Originally, we were told that this depreciation speed-up would help the economy because it would encourage businessmen to invest more, and this, in turn, would create jobs. But the ADR system has now been in effect over a year, and it is hard to find an economist who believes it has helped anyone but corporate stockholders. Meanwhile, it is costing the rest of us about $3 billion a year.

We should close the real estate loophole. A rich investor can put up an apartment building, take accelerated depreciation on it, and use the depreciation to shelter from tax his other ordinary income, such as salary and dividends. Moreover, if he then sells the building at a profit, he can frequently receive favorable capital gains treatment on part of it. Changing these provisions will increase Federal revenues by up to $1 billion annually.

We should beef up the minimum tax adopted in the 1969 Tax Reform Act. This provision was supposed to end tax avoidance by the rich, by making even loophole income subject to a small tax. Unfortunately, the minimum tax has turned out to be a gentle "love tap" to the rich. This is because some income is not subject to the minimum tax; there are overgenerous exemptions; and the tax is only 10 percent—about the average rate paid by the taxpayer earning $12,000 a year. Changing these features will raise $3 billion a year.

These eight proposals described so far will raise over $11 billion a year in new Federal revenues. There are 47 other proposed changes in the Tax Reform Act of 1972. Together, these would raise well over $5 billion a year, to bring the annual total for the whole bill to over $16 billion.

The exact formula for distributing

these funds within a State has yet to be worked out. Certainly, it should give relatively greater assistance to areas of major need. Recently, at President Nixon's request, a comprehensive study of this question was started by the Advisory Commission on Intergovernmental Relations, an organization of Federal, State, and local government officials plus representatives of the public. This study is now in progress.

In the attached charts, it has been assumed—for illustrative purposes—that all the new Federal revenues are distributed to the States on the basis of population, and that the States use the funds to cut property taxes.

These charts suggest the tremendous impact that the $16 billion of tax reform revenues could have nationwide in reducing property taxes directly or in paying local education costs.

In the charts, column 1 gives the present property tax rates in every Wisconsin community; column 2 gives the rates that would result from a 30-percent reduction. For instance, Milwaukee would go from $45 per thousand to $31.5 per thousand.

Alternatively, if the new funds were used to cut only that portion of the property tax going to education in Wisconsin these taxes could be cut in half. In the charts, column 3 shows the property tax rates for education, and column 4 shows the results of a 50-percent reduction in these rates.

Although the formula for distributing the new Federal funds must await the report of the Advisory Commission on Intergovernmental Relations, one change can—and should—be made now: property tax relief for the low-income elderly.

Property taxes place a particularly onerous burden on retired people. According to the Senate Special Committee on Aging, hundreds of thousands of older Americans are being driven from their homes because of prohibitive property taxes and maintenance costs.

Under this proposal, in addition to the property tax relief resulting from the tax sharing program already described, the Federal Government would rebate part of the property taxes paid by homeowners over 65 with less than $6,000 in income. The portion of the property tax rebated would depend on the individual's income. For instance, if household income is $1,000, 75 percent of the property tax—up to $270—would be rebated. If household income is $3,000, the homeowner would have to pay the first $60 in property taxes, and 75 percent of the remainder—up to $225—would be rebated. Finally, at $6,000, the rebate would be phased out.

This proposal would cost an estimated $600 million. Similar programs exist in Wisconsin and several other States but the eligibility levels are usually far below $6,000.

Of course, property tax relief for the elderly is only a small part of a much larger problem. The State supreme court decisions undermining the use of local property taxes in financing education have made some form of general property tax reform inevitable.

But to finance this reform, a comprehensive program to plug tax loopholes is far preferable to a new, national sales tax.

A major tax reform effort of this kind would make our tax system much more equitable. And it would allow taxes to be reduced for overburdened middle- and lower-income taxpayers.

Finally, it should be noted that the President's Commission on School Finance filed its report a few days ago. Its most important recommendation was that the States take over from the local districts the major burden of financing the schools. In view of the recent court decisions on the inequities of the locally levied property tax for school purposes, it is inevitable that some such alternative method will necessarily be adopted. The Commission boldly described the problem. It stated that the system of public schools "is, today, in serious trouble, and if we fail to recognize it, our country's chance to survive will all but disappear." While their description of the crisis was bold, their solution was not. In view of their own conclusion one would think they might suggest a solution commensurate with the gravity of the problem they described. But no. They could describe a calamity but not how to cope with it. Somehow they dream that with a $1 billion annual inducement from the Federal Treasury, State governments will magically find a way to assume major responsibility for financing local schools. It is far too little and much too late for this kind of palliative to be considered as a serious response to a challenge of "survival."

Mr. President, I ask unanimous consent to have printed in the RECORD a brief description of the major provisions of this bill, a section-by-section analysis, a table showing the State shares of the $16 billion tax reform savings, a brief description of the proposal to provide property tax relief for the low-income elderly, and a table showing the property tax relief that could be provided under this proposal: in every town, village, and city in Wisconsin with over 1,000 population.

I do this for the purpose of demonstrating specifically and dramatically the nature of the property tax relief that could be given to individual municipalities all across the Nation.

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

SUMMARY OF MAJOR PROVISIONS OF TAX REFORM PROPOSAL

I. AMENDMENTS AFFECTING INDIVIDUALS

(1) Substitute a $150 tax credit for the $750 personal exemption. At present, a personal exemption of $750 is worth $525 to the top bracket taxpayer and only $107 to the taxpayer in the lowest bracket. This change would reduce taxes for approximately 30 million taxpayers below $10,000. Savings in federal revenues: $1.9 billion a year.

(2) Disallow the exclusion from income of $100 of dividends. Present law gives no similar exclusion in the case of interest on a savings account—a much more common form of income for poor and middle income people. Savings: $280 million.

(3) Eliminate the deduction for state gasoline taxes where the item is a personal and not a business expense. Like the nondeductible federal gasoline tax, the state gasoline tax is essentially a charge for the use of highway facilities and, therefore, should not be deductible. Savings: $300 million.

(4) Tax capital gains at death. Suppose a taxpayer bought $5 million worth of stock in 1950, and the stock is now worth $15 million. If he sells the stock, he will have to pay a capital gains tax on the $10 million increase in value. But if he holds the stock and passes it on to his heirs, neither he nor his heirs will ever have to pay tax on the amount that the stock increased in value while he held it. The heirs only pay taxes on any increase in value after they inherited the stock. This avoidance of the (lower) capital gains tax rates has no economic justification. Both President Kennedy in 1963 and President Johnson's Treasury Department in 1969 recommended its repeal. Savings: $2.0 billion.

(5) Place a 15% ceiling on all mineral depletion allowances. In 1966, the 20 top American oil companies made $4¾ billion in profits, yet they paid federal income taxes at the rate of only 8½%. The Treasury estimated that the cost of the average well was recovered 19 times. Since then the oil depletion allowance has been reduced to 22%, but further reduction is badly needed. President Truman recommended a reduction to 15% in 1950. Savings: $400 million.

(6) Require capitalization of mineral exploration and drilling costs, with these costs to be recovered over the life of the property through depletion allowances. At present, oil drilling costs are deducted from income as current expenses, even though they are in effect capital investments whose costs should be spread over the life of the property. This provision would require that these costs be treated as investments. Savings: $750 million the first year, and $300 million a year on a long-term basis.

II. AMENDMENTS AFFECTING CORPORATIONS

(7) Repeal the ADR system of depreciation. Before 1971, the rules governing depreciation maintained a direct link between the depreciation claimed by taxpayers and the actual "wearing out" of equipment. Taxpayers were not allowed to depreciate for tax purposes more rapidly than they were actually replacing the equipment. The Asset Depreciation Range (ADR) system broke this link, and allowed taxpayers a 20% speed-up of depreciation schedules. This provision would return us to the earlier rules. Savings: $2.4 billion in 1972; $3.0 billion annually thereafter.

(8) Tax the income of foreign subsidiaries of U.S. corporations on a current basis. At the present time, the earnings of these subsidiaries are not taxed by the U.S. until they are brought home. This creates an incentive for U.S. corporations to invest abroad. Savings: $170 million.

(9) Repeal DISC. Under a provision of the Revenue Act of 1971, a U.S. export firm can set up a paper corporation (known as "DISC"), channel its exports through its DISC, and thus escape 50% of the corporation income tax on its export earnings. This provision would close this new loop-hole and subject export earnings to the same tax rates as exist for other kinds of income. Savings: $170 million the first year and increasing amounts thereafter.

III. AMENDMENTS AFFECTING INDIVIDUALS AND CORPORATIONS

(10) Provide a federal interest subsidy to encourage states and municipalities to issue taxable bonds. At present, interest from these bonds is tax-free. This allows local governments to raise badly needed funds at relatively low interest rates. Unfortunately, it also provides an easy vehicle for the wealthy to avoid taxes. Under this provision, local governments could continue to issue tax-exempt bonds; alternatively, they could issue taxable bonds and receive a federal subsidy of 50% of the interest cost. This would raise little or no money for the federal govern-

ment, but it would save considerable amounts for local governments electing to use the new system. (A similar provision was adopted by the House in 1969.)

(11) Provide that a capital asset must be held for at least 12 months to qualify as a long-term gain. At present, the holding period is 6 months. Any realized increase in value resulting from the sale of an asset held over 6 months is taxed at the (reduced) capital gains rates. This provision would lengthen the holding period to 12 months. (Adopted by the House in 1969.) Savings: $150 million.

(12) Alter the charitable deduction in the case of appreciated capital assets. As a result of the 1969 Tax Reform Act, if capital assets which have appreciated in value are given to a private foundation, the charitable deduction is reduced by one-half of the capital gain the individual would have had if he had sold the property at fair market value. This provision extends this rule to gifts of appreciated property to any charity.

(13) Limit the allowable depreciation on rental real estate to straight-line. Thus, if a building has a "life" of 50 years, the taxpayer would be limited to depreciation of 2% of its cost in any one year. The use of accelerated depreciation methods has been a major feature of the rental real estate tax shelter. Savings: $300 million.

(14) Provide that if depreciable real estate is sold at a gain, the gain shall be treated as ordinary income to the extent of the depreciation taken. Thus, suppose an invester purchases a piece of real estate for $1 million, takes $200,000 in depreciation in the first five years, and then sells the property for $1.3 million. Since the property was sold at a gain, he would pay taxes at regular income tax rates on the $200,000. This provides for real estate essentially the same rules that are applied under existing law for recapture of depreciation on personal property sold at a gain. Savings: $100 million.

IV. MINIMUM TAX

(15) Add to the list of tax preferences subject to the minimum tax: (1) credit allowed for the investment credit; and (2) tax-exempt interest on state and local bonds.

This section would also reduce the $30,000 exemption for tax preferences to $12,000, and repeal the provision allowing regular income taxes to be deducted from the preference income.

(16) Increase the minimum tax rates to 50% of the regular income tax rates. The minimum tax was set at 10% in the Tax Reform Act of 1969. This provision would make this tax progressive.

V. ESTATE AND GIFT TAXES

(17) Integrate estate and gift taxes. Present law discriminates heavily in favor of those who give away their wealth partly through life-time gifts and partly at death, as against those who pass on all their wealth at death. In part, this is because both the gift tax and estate tax schedules are progressive. Thus, the man who transfers property both by gift and at death gets to start at the bottom of two separate, progressive rate structures. This section would integrate the estate and gift taxes so that the tax brackets for property transferred at death are determined by the amount of taxable gifts. The wealth transferred at death is taxed as if it were "stacked" on top of the lifetime gifts.

(18) Impose a tax on property passed on through generation-skipping trusts. Under present law, it is possible to partially avoid the estate tax by transferring property to grandchildren or great grandchildren without a transfer tax being paid by the intervening generation or generations. This provision would close this loop-hole.

(19) Limit the charitable deduction for estate tax purposes, similar to that in existence for income tax purposes. Under present law, a decedent can give his entire estate to a private foundation created by his will, and pay no federal estate tax. This provision limits the charitable deduction to 50% of the gross estate.

STATE SHARES OF $16 BILLION TAX REFORM SAVINGS

[Based on 1970 population]

State	Percentage of U.S. population	State shares (millions)
Alabama	1.67	$267
Alaska	.15	24
Arizona	.86	138
Arkansas	.93	149
California	9.69	1,550
Colorado	1.07	171
Connecticut	1.47	235
Delaware	.27	43
Florida	3.30	528
Georgia	2.23	357
Hawaii	.37	59
Idaho	.35	56
Illinois	5.40	864
Indiana	2.52	403
Iowa	1.37	219
Kansas	1.09	174
Kentucky	1.28	205
Louisiana	1.77	283
Maine	.48	77
Maryland	1.94	310
Massachusetts	2.76	442
Michigan	4.31	690
Minnesota	1.85	296
Mississippi	1.08	173
Missouri	2.27	363
Montana	.34	54
Nebraska	.72	115
Nevada	.24	38
New Hampshire	.36	58
New Jersey	3.48	557
New Mexico	.49	78
New York	8.84	1,414
North Carolina	2.47	395
North Dakota	.30	48
Ohio	5.17	827
Oklahoma	1.24	198
Oregon	1.24	198
Pennsylvania	5.73	917
Rhode Island	.46	74
South Carolina	1.26	202
South Dakota	.32	51
Tennessee	1.91	306
Texas	5.44	870
Utah	.51	82
Vermont	.22	35
Virginia	2.26	362
Washington	1.66	266
West Virginia	.85	136
Wisconsin	2.15	344
Wyoming	.16	26

Note: If the $16,000,000,000 raised through tax reform were distributed to the States on the basis of population, this table shows how much each State would receive.

PROPERTY TAX RELIEF FOR LOW-INCOME PEOPLE OVER 65

This proposal would provide a tax credit against federal income taxes for unusually high property taxes on a personal residence. It is modeled after the Wisconsin law. Property taxes are considered unusually high if they exceed a certain percentage of household income. After determining the amount of the tax which is excessive, 75 percent of the excessive part is relieved.

According to the formula, the cutoff point is $6,000—an elderly person earning over this amount would get no help. Moreover, the taxpayer could only use up to $360 of his property tax in computing his credit. (Otherwise very large credits would be available to people living on large estates.)

To preserve equity between owners and renters, it is assumed that 25 percent of the rent payment is in effect payment for property taxes, and thus eligible for the credit.

Since many of those eligible for this assistance do not earn enough to pay federal income taxes, the property tax relief for them would be in the form of a direct federal cash refund rather than a tax credit.

The following table shows how the proposal would work. The table gives the tax credit (or cash refund) that would be available to poor homeowners over 65 paying property taxes of $300:

Household income	*Credit or refund*
$1,000	$225
2,000	210
3,000	180
4,000	120
5,000	45
6,000	0

Thus, for an elderly homeowner with income of $3,000, the credit (or refund) would be $180. He would have to pay the other $120 himself.[1]

PROPERTY TAX RATES IN WISCONSIN

Under the Nelson program, property taxes nationwide could be reduced by 30 percent. Alternatively, if this proposal were applied to school taxes alone, it would allow a 50 percent reduction of these taxes.

This table shows how much local property taxes could be reduced in each town, village and city in Wisconsin with over 1,000 population. Column 1 shows the present total property tax rate in each Wisconsin tax district, in dollars of tax per thousand dollars of property. Column 2 shows the results of a 30 percent reduction in these rates. Column 3 shows the present property tax rates used to finance the local schools. Column 4 shows the results of a 50 percent reduction in these rates.

The tax rates presented here are based on "full value". Each year, the Wisconsin Department of Revenue determines the actual market value of general property throughout the state. The "full value" tax rate is simply the total property tax paid divided by the actual market value of the property. These tax rates have been computed for every tax district in the state, and are comparable. The Department of Revenue also lists property tax rates based on local assessment. Since different tax districts are at differing percentages of full value, these tax rates are not comparable, and therefore have not been reproduced here:

TOWNS, VILLAGES AND CITIES OVER 1,000 POPULATION

[Rates in dollars per thousand]

Tax district	Total property tax rate (percent)	Total property tax rate (30 percent reduction)	Property tax rate for education (percent)	Property tax rate for education (50 percent reduction)
ADAMS COUNTY				
Cities: Adams	32.36	22.56	17.27	8.635
ASHLAND COUNTY				
Cities:				
Ashland	34.43	24.10	19.72	9.86
Mellen	37.37	26.159	25.57	12.785
BARRON COUNTY				
Towns:				
Rice Lake	28.02	19.614	19.25	9.625
Stanley	29.96	20.972	20.43	10.215
Cities:				
Barron	34.39	24.073	20.99	10.495
Chetek	33.29	23.303	20.80	10.40
Cumberland	36.28	25.396	22.56	11.28
Rice Lake	33.57	23.499	21.91	10.955
BAYFIELD COUNTY				
Cities: Washburn	39.30	27.51	22.80	11.40
BROWN COUNTY				
Towns:				
Allouez	28.69	20.053	18.79	9.395
Ashwaubenon	27.22	19.054	18.77	9.385
Bellevue	26.03	18.221	17.80	8.90
De Pere	24.78	17.346	17.75	8.875
Eaton	26.68	18.676	17.67	8.835

[1] The formula itself is as follows: the credit (or refund) is equal to 75 percent of the property tax paid by the elderly homeowner, minus 3 percent of any income above $1,500 and up to $3,000; 6 percent of any income above $3,000 and up to $4,500; and 9 percent of any income above $4,500 and up to $6,000.

TOWNS, VILLAGES & CITIES OVER 1,000—Continued
[Rates in dollars per thousand]

Tax district	Total property tax rate (percent)	Total property tax rate (30 percent reduction)	Property tax rate for education (percent)	Property tax rate for education (50 percent reduction)
Glenmore	25.02	17.514	16.91	8.455
Hobart	26.22	18.354	16.50	8.25
Holland	23.86	16.702	18.13	9.065
Humboldt	26.54	18.578	18.44	9.22
Lawrence	24.44	17.108	17.21	8.605
Morrison	25.72	18.004	17.47	8.735
New Denmark	26.92	18.844	17.76	8.88
Pittsfield	22.63	15.981	15.85	7.975
Scott	22.04	15.428	17.83	8.91
Suamico	23.14	16.198	15.91	7.955
Wrightstown	24.25	16.975	16.95	8.475
Villages:				
Denmark	28.30	19.810	20.21	10.105
Howard	21.97	15.379	16.29	8.145
Pulaski	32.21	22.547	19.31	9.655
Wrightstown	28.85	20.195	18.35	9.175
Cities:				
De Pere	31.72	22.204	18.03	9.015
Green Bay	32.70	22.890	19.53	9.765
BUFFALO COUNTY				
Cities:				
Fountain City	40.59	28.413	22.39	11.195
Mondovi	33.76	26.432	20.45	10.225
CALUMET COUNTY				
Towns:				
Brillion	24.63	17.241	16.82	8.41
Brothertown	30.82	21.574	20.51	10.255
Charlestown	32.50	22.75	20.51	10.255
Chilton	32.85	22.995	20.66	10.33
Harrison	23.98	16.786	19.72	9.86
New Holstein	31.49	22.043	20.57	10.285
Rantoul	25.06	17.542	18.50	9.45
Stockbridge	28.59	20.013	20.43	10.215
Woodville	25.97	18.179	18.40	9.20
Cities:				
Appleton	28.98	20.286	18.65	9.325
Brillion	24.46	17.122	16.61	8.305
Chilton	27.24	19.068	23.96	11.98
New Holstein	30.13	21.091	20.71	10.355
CHIPPEWA COUNTY				
Towns:				
Anson	20.40	14.280	15.88	7.94
Delmar	25.57	17.899	17.31	8.655
Eagle Point	19.30	13.510	16.08	8.04
Edson	24.21	16.947	17.66	8.83
Hallie	18.10	12.67	13.42	6.71
Lafayette	19.01	13.307	15.94	7.97
Wheaton	22.06	15.442	16.36	8.18
Cities:				
Bloomer	36.52	25.564	22.09	11.045
Chippewa Falls	28.77	20.139	13.60	6.80
Cornell	31.60	22.12	22.63	11.315
Stanley	28.42	19.894	17.96	8.98
CLARK COUNTY				
Cities:				
Abbotsford	39.60	27.72	23.24	11.62
Greenwood	40.96	28.672	27.84	13.92
Loyal	39.98	27.986	33.85	16.925
Neillsville	38.84	27.188	19.84	9.92
Owen	34.76	24.332	25.42	12.71
Thorp	36.77	25.739	23.14	11.57
COLUMBIA COUNTY				
Towns:				
Dekorra	23.88	16.716	19.92	9.96
Lodi	19.76	13.832	17.63	8.815
Wyocena	20.87	14.609	18.83	9.415
Villages:				
Pardeeville	29.07	20.349	22.35	11.175
Poynette	30.79	21.553	20.65	10.325
Cities:				
Columbus	32.03	22.414	19.62	9.81
Lodi	30.92	21.644	18.43	9.215
Portage	27.44	19.208	18.59	9.295
Wisconsin Dells	31.94	22.358	17.93	8.965
CRAWFORD COUNTY				
Cities: Prairie du Chien	32.13	22.491	18.67	9.335
DANE COUNTY				
Towns:				
Albion	23.73	16.611	19.65	9.825
Blooming Grove	23.80	16.66	19.24	9.62
Bristol	24.19	16.933	18.71	9.355
Burke	21.83	15.281	18.34	9.17
Christiana	25.76	17.932	21.91	10.955
Cottage Grove	24.68	17.276	20.79	10.395
Dunkirk	24.16	16.912	19.34	9.67
Dunn	24.90	17.430	21.39	10.695
Fitchburg	24.37	17.059	20.37	10.185
Madison	26.51	18.557	22.56	11.28
Middleton	30.46	21.322	25.45	12.725
Oregon	26.69	18.683	20.22	10.11
Pleasant Springs	24.91	17.437	20.52	10.26
Roxbury	23.75	16.625	19.76	9.88
Rutland	23.61	16.527	18.59	9.295
Springdale	21.81	15.267	17.58	8.79
Springfield	23.24	16.268	19.05	9.525
Sun Prairie	23.03	16.121	18.70	9.35
Verona	23.99	16.793	19.89	9.945
Vienna	23.07	16.149	17.05	8.525
Westport	23.30	16.310	19.36	9.68
Windsor	21.73	15.211	18.59	9.295
Villages:				
Black Earth	31.32	21.924	24.15	12.075
Cross Plains	30.24	21.168	22.86	11.43
Deerfield	27.92	19.544	21.40	10.70
Deforest	21.16	15.127	18.02	9.01
Maple Bluff	22.74	15.918	21.03	10.515
Marshall	28.55	19.985	20.57	10.285
Mazomanie	31.43	22.001	22.08	11.04
McFarland	30.46	21.322	24.02	12.01
Mount Horeb	27.27	19.089	17.36	8.68
Oregon	31.80	22.26	22.76	11.38
Shorewood Hills	25.56	17.892	19.98	9.99
Verona	30.12	21.084	22.52	11.26
Waunakee	28.51	19.957	19.97	9.985
Cities:				
Madison	32.56	22.792	20.29	10.145
Middleton	28.97	20.279	21.40	10.70
Monona	28.25	19.775	23.08	11.54
Stoughton	29.58	20.706	19.89	9.995
Sun Prairie	26.26	18.382	22.98	11.49
DODGE COUNTY				
Towns:				
Ashippun	28.34	19.838	21.89	10.945
Beaver Dam	20.86	14.602	15.45	7.725
Chester	19.06	13.342	16.94	8.47
Emmet	27.16	19.012	19.88	9.94
Fox Lake	22.92	16.044	15.63	7.815
Herman	30.57	21.399	22.86	11.43
Hubbard	26.33	18.431	17.76	8.88
Hustisford	27.20	19.040	18.10	9.05
Lebanon	31.05	21.735	21.03	10.515
Leroy	28.06	19.642	20.97	10.495
Lomira	21.20	14.840	15.09	7.545
Lowell	25.61	17.927	17.89	8.945
Oak Grove	27.25	19.075	20.88	10.44
Rubicon	31.62	22.134	23.76	11.88
Theresa	27.03	18.921	19.78	9.89
Trenton	22.51	15.757	16.97	8.485
Westford	23.69	16.583	16.62	8.31
Villages:				
Lomira	29.94	20.958	16.88	8.44
Randolph	29.66	20.762	19.90	9.95
Cities:				
Beaver Dam	.89	21.623	18.61	9.305
Fox Lake	33.76	23.632	18.97	9.485
Horicon	32.40	22.680	20.38	10.19
Juneau	30.60	21.420	19.95	9.975
Mayville	29.73	20.811	22.36	11.18
Watertown	33.57	23.499	20.68	10.34
Waupun	28.97	20.279	18.42	9.21
DOOR COUNTY				
Towns:				
Brussels	23.14	16.198	17.55	8.775
Liberty Grove	19.37	13.559	13.47	6.735
Nasewaupee	22.19	15.533	17.33	8.665
Sevastopol	22.15	15.505	17.56	8.78
Cities: Sturgeon Bay	31.36	21.952	17.89	8.945
DOUGLAS COUNTY				
Towns:				
Parkland	20.05	14.035	13.37	8.945
Superior	22.19	15.533	14.79	7.395
Cities: Superior	35.66	24.973	20.31	10.155
DUNN COUNTY				
Towns:				
Menomonie	23.51	16.457	17.15	8.575
Spring Brook	24.49	17.143	17.78	8.89
Tainter	23.23	16.261	16.60	8.30
Villages: Colfax	34.09	23.963	20.83	10.415
Cities: Menomonie	35.73	25.011	20.82	10.41
EAU CLAIRE COUNTY				
Towns:				
Brunswick	22.09	15.463	17.99	8.99
Pleasant Valley	24.21	16.947	18.11	9.05
Seymour	19.85	13.895	20.78	10.395
Union	24.51	17.157	20.34	10.175
Washington	21.68	15.175	18.30	9.15
Cities:				
Altoona	30.61	21.427	21.04	10.52
Augusta	34.47	24.129	21.82	10.91
Eau Claire	29.40	20.580	21.12	10.56
FLORENCE COUNTY				
Towns: Florence	27.26	19.082	17.21	8.605
FOND DU LAC COUNTY				
Towns:				
Alto	25.56	17.892	17.49	8.745
Ashford	24.30	17.010	16.97	8.485
Auburn	23.40	16.380	18.12	9.06
Byron	24.90	17.430	19.39	9.695
Calumet	24.93	17.451	19.13	9.565
Eden	20.44	14.308	17.37	8.685
Eldorado	24.66	17.262	18.73	9.365
Empire	20.23	14.161	19.55	9.775
Fond du Lac	22.20	15.540	18.13	9.065
Forest	22.59	15.813	17.12	8.56
Friendship	21.44	15.008	18.82	9.41
Lamartine	26.29	18.403	21.16	10.58
Marshfield	25.02	17.514	17.75	8.875
Osceola	24.56	17.192	18.55	9.275
Ripon	25.38	17.766	19.87	9.935
Taycheedah	23.68	16.576	19.10	9.55
Waupun	21.68	15.176	17.63	8.815
Villages:				
Campbellsport	28.66	20.062	18.13	9.065
North Fond du Lac	27.10	18.970	20.13	10.065
Cities:				
Fond du Lac	37.70	26.390	22.29	11.145
Ripon	34.04	23.828	22.63	11.315
Waupun	31.54	22.078	20.28	10.14
FOREST COUNTY				
Towns:				
Laona	29.62	20.735	20.79	10.395
Wabeno	30.57	21.399	16.10	8.05
Cities: Crandon	32.51	22.757	17.37	8.685
GRANT COUNTY				
Towns:				
Hazel Green	26.07	18.245	10.39	9.695
Jamestown	24.46	17.122	19.30	9.65
Platteville	27.70	19.390	22.72	11.36
Potosi	30.62	21.434	22.26	11.13
South Lancaster	27.72	19.404	20.00	10.00
Villages:				
Cassville	10.17	7.497	10.71	5.355
Dickeyville	26.06	18.242	20.24	10.12
Muscoda	24.14	23.898	23.13	11.565
Cities:				
Boscobel	34.79	24.353	21.38	10.69
Cuba City	31.05	21.735	20.19	10.095
Fennimore	36.02	25.214	22.00	11.00
Lancaster	33.30	23.310	21.37	10.685
Platteville	34.61	24.227	22.97	11.485
GREEN COUNTY				
Towns:				
Clarno	25.34	17.738	19.69	9.345
Jefferson	25.36	17.752	19.00	9.50
Monroe	23.50	16.450	17.66	8.83
Villages: New Glarus	30.62	21.434	23.43	11.715
Cities:				
Brodhead	34.53	24.171	22.48	11.24
Monroe	27.57	19.299	19.23	9.615
GREEN LAKE COUNTY				
Towns:				
Brooklyn	21.94	15.358	17.18	8.59
Green Lake	23.44	16.408	18.47	9.235
Cities:				
Berlin	26.14	18.298	17.99	8.995
Green Lake	26.16	18.312	16.86	8.43
Markesan	28.52	19.964	20.38	10.19
Princeton	26.72	18.704	18.84	9.42
IOWA COUNTY				
Towns:				
Arena	28.06	19.642	19.23	9.615
Dodgeville	28.35	19.845	19.78	9.89
Cities:				
Dodgeville	35.14	24.598	20.64	10.955
Mineral Point	39.87	27.909	21.91	10.955
IRON COUNTRY				
Towns: Mercer	27.14	18.998	18.11	9.055
Cities: Hurley	43.17	30.219	22.55	11.275
JACKSON COUNTY				
Cities: Black River Falls	37.79	26.453	22.97	11.485

Tax district	Total property tax rate (percent)	Total property tax rate (30 percent reduction)	Property tax rate for education (percent)	Property tax rate for education (50 percent reduction)
JEFFERSON COUNTY				
Towns:				
Aztalan	21.48	15.036	19.00	9.50
Cold Spring	24.55	17.185	21.13	10.565
Concord	24.40	17.080	19.60	9.80
Farmington	24.93	17.451	20.13	10.065
Ixonia	27.22	19.054	21.15	10.575
Jefferson	19.34	13.538	18.03	9.015
Koshkonong	23.34	16.338	20.68	10.34
Lake Mills	22.44	15.708	19.22	9.61
Milford	21.24	14.868	18.16	9.08
Oakland	25.06	17.542	22.73	11.365
Sullivan	23.20	16.240	18.73	9.365
Watertown	26.74	18.718	20.02	10.01
Villages: Palmyra	31.42	21.994	22.43	11.215
Cities:				
Fort Atkinson	30.03	21.021	20.37	10.185
Jefferson	29.10	20.370	18.67	9.335
Lake Mills	26.67	18.669	18.21	9.105
Waterloo	29.25	20.475	23.16	11.58
Watertown	33.26	23.282	20.39	10.195
Whitewater	37.29	26.103	23.21	11.605
JUNEAU COUNTY				
Cities:				
Elroy	35.21	24.647	21.10	10.55
Mauston	38.56	26.992	23.28	11.64
New Lisbon	39.96	27.972	23.68	11.85
KENOSHA COUNTY				
Towns:				
Brighton	26.67	18.669	20.64	10.32
Bristol	29.13	20.391	23.28	11.64
Paris	26.78	18.746	25.06	12.53
Pleasant Prairie	27.08	18.956	21.25	10.625
Randall	28.83	20.181	23.20	11.60
Salem	31.47	22.029	25.80	12.90
Somers	25.81	18.067	21.51	10.955
Wheatland	29.53	29.671	23.76	11.88
Villages:				
Paddock Lake	36.35	25.445	25.67	12.835
Silver Lake	39.17	27.419	28.67	14.335
Twin Lakes	34.11	23.877	25.75	12.875
Cities: Kenosha	36.30	25.41	20.66	10.33
KEWAUNEE COUNTY				
Towns:				
Carlton	21.26	14.882	16.86	8.43
Luxemburg	26.47	18.529	18.47	9.235
Montpelier	24.47	17.129	16.78	8.39
Red River	22.96	16.072	16.01	8.005
W. Kewaunee	25.91	18.137	18.62	9.31
Cities:				
Algoma	32.54	22.778	21.49	10.745
Kewaunee	28.88	20.216	18.20	9.10
LA CROSSE COUNTY				
Towns:				
Campbell	18.90	13.230	14.50	7.25
Farmington	30.26	21.182	21.99	10.995
Greenfield	24.96	17.472	17.68	8.84
Hamilton	26.61	18.627	21.43	10.715
Medary	19.47	13.629	18.63	9.315
Onalaska	24.75	17.325	20.45	10.225
Shelby	19.41	13.587	13.53	6.765
Villages:				
Holmen	29.91	20.937	23.62	11.81
West Salem	30.07	21.049	19.99	9.995
Cities:				
La Crosse	25.30	17.710	15.14	7.570
Onalaska	28.20	19.740	21.04	10.52
LAFAYETTE COUNTY				
Cities:				
Darlington	39.03	27.351	21.49	10.745
Shullsburg	29.45	20.615	17.98	8.990
LANGLADE COUNTY				
Towns: Antigo	27.23	19.061	18.52	9.260
Cities: Antigo	38.26	26.782	19.47	9.735
LINCOLN COUNTY				
Towns:				
Bradley	22.32	15.624	14.34	7.17
Merrill	26.03	18.221	17.70	8.850
Pine River	27.37	19.159	18.06	9.03
Scott	28.10	19.670	19.10	9.55
Cities:				
Merrill	37.43	26.101	18.27	9.135
Tomahawk	30.77	21.539	23.75	11.875
MANITOWOC COUNTY				
Towns:				
Cato	27.85	19.495	18.20	9.10
Cooperstown	26.77	18.739	18.09	9.045
Franklin	28.44	19.908	18.77	9.385
Gibson	29.31	20.517	17.81	8.905
Kossuth	25.59	17.913	16.82	8.410
Liberty	29.84	20.888	18.51	9.255
Manitowoc	22.28	15.596	16.48	8.24
Manitowoc Rapids	24.73	17.311	16.37	8.185
Meeme	30.39	21.273	22.69	11.345
Mishicot	25.42	17.794	17.90	8.950
Newton	25.27	17.689	16.96	8.480
Schleswig	30.29	21.203	22.80	11.400
Two Rivers	24.09	16.863	17.90	8.950
Cities:				
Kiel	35.20	24.640	32.84	16.42
Manitowoc	30.85	21.595	18.26	9.130
Two Rivers	31.68	22.176	19.20	9.60
MARATHON COUNTY				
Towns:				
Hull	29.99	20.993	22.00	11.00
Kronenwetter	26.37	18.459	20.08	10.04
Maine	24.50	19.150	20.02	10.01
McMillan	26.30	18,410	19.80	9.900
Rib Mountain	23,51	16.457	18.40	9.20
Rietbrock	31.89	22.323	22.58	11.29
Stettin	23.25	16.275	20.02	10.01
Texas	28.43	19.901	19.96	9.980
Wausau	26.13	18.291	20.37	10.185
Weston	21.50	15.050	15.99	7.995
Villages:				
Marathon	32.89	23.023	23.00	11.50
Rothschild	29.90	20.930	21.84	10.92
Spencer	34.47	24.129	22.20	11.10
Stratford	31.02	21.714	20.25	10.125
Cities:				
Mosinee	26.17	18.319	19.73	9.865
Schofield	30.91	21.637	20.03	10.015
Wausau	34.61	24.227	21.30	10.65
MARINETTE COUNTY				
Towns:				
Grover	24.89	17.423	17.34	8.67
Peshtigo	24.11	16.877	19.91	9.955
Porterfield	23.30	16.310	16.52	8.26
Pound	22.22	15.554	15.59	7.795
Stephenson	26.16	18.312	17.45	8.725
Villages: Niagara	33.09	23.163	19.27	9.635
Cities:				
Marinette	34.36	24.052	21.68	10.84
Peshtigo	30.24	21.168	20.86	10.43
MARQUETTE COUNTY				
Villages: Montello	30.77	21.539	20.42	10.21
MILWAUKEE COUNTY				
Villages:				
Bayside	35.02	24.514	23.30	11.65
Brown Deer	36.75	25.725	24.04	12.02
Fox Point	35.77	25.039	24.65	12.325
Greendale	34.85	24.395	22.77	11.385
Hales Corners	36.22	25.354	23.86	11.93
River Hills	33.56	23.492	21.27	10.635
Shorewood	38.08	26.656	21.91	10.955
West Milwaukee	33.39	23.373	15.89	7.945
Whitefish Bay	36.93	25.851	24.53	12.265
Cities:				
Cudahy	38.50	26.950	22.21	11.105
Franklin	36.15	25.305	23.98	11.99
Glendale	29.35	20.545	16.95	8.475
Greenfield	32.87	23.009	21.36	10.68
Milwaukee	44.97	31.479	20.81	10.405
Oak Creek	28.81	20.167	21.60	10.80
Saint Francis	38.68	27.076	22.40	11.20
S. Milwaukee	36.54	25.578	21.44	10.72
Wauwatosa	30.43	21.301	16.64	8.320
West Allis	33.84	23.688	14.97	7.485
MONROE COUNTY				
Towns:				
La Grange	27.21	19.047	20.08	10.04
Little Falls	29.50	20.650	20.03	10.015
Sparta	27.66	19.362	19.41	9.705
Cities:				
Sparta	31.35	21.945	20.21	10.015
Tomah	35.91	25.139	20.41	10.205
OCONTO COUNTY				
Towns:				
Chase	27.11	18.977	18.26	9.130
Little Suamico	29.79	20.853	19.98	9.990
Cities:				
Gillett	30.28	21.196	18.24	9.12
Oconto	40.23	28.161	20.73	10.365
Oconto Falls	34.82	24.374	22.54	11.270
ONEIDA COUNTY				
Towns:				
Crescent	19.83	13.881	16.04	8.020
Minocqua	22.06	15.442	12.04	6.020
Newbold	19.12	13.384	14.78	7.390
Pelican	20.38	14.266	16.38	8.190
Pine Lake	22.49	15.743	17.52	8.76
Three Lakes	21.82	15.274	14.93	7.465
Woodruff	20.57	14.399	13.90	6.95
Cities: Rhinelander	31.71	22.197	18.50	9.25
OUTAGAMIE COUNTY				
Towns:				
Buchanan	23.87	16.709	19.03	9.515
Center	23.73	16.611	17.58	8.79
Cicero	26.72	18.704	20.68	10.34
Dale	24.37	17.059	20.08	10.04
Ellington	22.25	15.575	18.13	9.065
Freedom	21.89	15.323	17.45	8.725
Grand Chute	22.62	15.834	18.20	9.100
Greenville	23.81	16.667	19.49	9.745
Oneida	25.40	17.780	19.04	9.520
Seymour	26.72	18.704	20.46	10.23
Vandenbroek	25.04	17.528	19.84	9.920
Villages:				
Combined Locks	27.90	19.530	19.51	9.755
Hortonville	25.90	18.130	19.12	9.56
Kimberly	28.49	19.943	18.90	9.45
Little Chute	29.10	20.370	18.22	9.11
Cities:				
Appleton	28.81	20.167	17.86	8.93
Kaukauna	29.79	20.853	19.00	9.50
New London	31.52	22.064	19.95	9.975
Seymour	35.73	25.011	22.26	11.13
OZAUKEE COUNTY				
Towns:				
Belgium	25.44	17.808	21.57	10.785
Cedarburg	20.83	14.581	19.65	9.825
Fredonia	23.65	16.555	20.10	10.05
Grafton	22.49	15.743	22.62	11.37
Port Washington	20.64	14.448	17.48	8.92
Saukville	20.71	14.497	17.77	8.885
Villages:				
Fredonia	30.61	21.427	23.17	11.585
Grafton	26.75	18.725	22.52	11.26
Saukville	24.99	17.493	19.07	9.353
Thiensville	28.72	20.104	25.74	12.87
Cities:				
Cedarburg	26.30	18.410	20.30	10.15
Mequon	28.24	19.768	24.22	12.11
Port Washington	22.11	15.477	19.92	9.96
PEPIN COUNTY				
Towns: Waterville	29.29	20.503	18.36	9.18
Cities: Durand	37.06	25.942	20.75	10.375
PIERCE COUNTY				
Towns:				
Ellsworth	29.39	20.573	20.44	10.22
River Falls	27.57	19.299	19.47	9.735
Trenton	28.48	19.936	20.38	10.19
Trimbelle	28.93	20.251	20.29	10.145
Villages: Ellsworth	32.53	22.771	21.25	10.625
Cities:				
Prescott	32.91	23.037	21.32	10.66
River Falls	30.80	21.56	20.58	10.29
POLK COUNTY				
Towns:				
Alden	26.71	18.697	20.05	10.025
Eureka	30.57	21.399	21.40	10.70
Farmington	25.95	18.165	19.62	9.81
Lincoln	26.42	18.494	18.16	9.08
Villages: Osceola	32.52	22.764	20.61	10.305
Cities:				
Amery	30.57	21.399	20.55	10.275
St. Croix Falls	35.75	25.025	23.17	11.585
PORTAGE COUNTY				
Towns:				
Carson	25.72	18.004	19.85	9.925
Grant	25.81	18.067	19.38	9.69
Hull	23.60	16.520	20.40	10.20
Plover	25.38	17.766	19.10	9.55
Sharon	29.20	20.44	21.96	10.98
Stockton	24.96	19.472	21.17	10.585
Villages: Whiting	26.52	18.564	20.65	10.325
Cities: Stevens Point	34.90	24.430	22.26	11.13

TOWNS, VILLAGES & CITIES OVER 1,000—Continued
[Rates in dollars per thousand]

Tax district	Total property tax rate (percent)	Total property tax rate (30 percent reduction)	Property tax rate for education (percent)	Property tax rate for education (50 percent reduction)
PRICE COUNTY				
Towns:				
Lake	25.07	17.549	18.61	9.305
Worcester	21.65	15.155	14.37	7.185
Cities:				
Park Falls	29.45	20.615	17.84	8.92
Phillips	31.12	21.784	16.46	8.23
RACINE COUNTY				
Towns:				
Burlington	25.27	17.689	17.21	8.605
Caledonia	28.23	19.961	20.39	10.195
Dover	29.18	20.426	22.20	11.10
Mt. Pleasant	27.45	19.215	20.81	10.405
Norway	29.75	20.825	23.70	11.85
Raymond	33.22	23.254	24.63	12.315
Rochester	23.29	19.803	21.34	10.67
Waterford	34.62	24.234	27.58	13.79
Yorkville	37.79	26.453	29.53	14.765
Villages:				
Sturtevant	37.44	26.208	21.24	10.62
Union Grove	45.93	32.151	322.84	16.42
Waterford	40.28	28.196	26.02	13.01
Wind Point	22.95	16.065	22.92	11.46
Cities:				
Burlington	33.29	23.303	27.02	13.51
Racine	37.71	26.397	21.02	10.51
RICHLAND COUNTY				
Towns:				
Buena Vista	30.69	21.483	19.08	9.54
Richland	29.86	20.902	18.56	9.28
Cities: Richland Center	38.52	26.964	20.01	10.005
ROCK COUNTY				
Towns:				
Beloit	23.13	16.191	22.55	11.275
Bradford	21.74	15.218	17.91	8.955
Clinton	20.50	14.350	17.28	8.64
Fulton	21.32	14.924	19.42	9.91
Harmony	21.03	14.721	18.34	9.17
Janesville	20.23	14.161	18.85	9.425
Laprairie	22.70	15.890	19.16	9.58
Lima	23.18	16.226	21.11	10.555
Milton	22.79	15.953	19.92	9.96
Newark	23.26	16.282	17.45	8.725
Plymouth	22.48	15.736	17.21	8.605
Rock	24.82	17.374	21.33	10.665
Turtle	21.98	15.386	19.60	9.80
Union	22.48	15.736	17.27	8.635
Villages: Clinton	27.75	19.425	17.99	8.995
Cities:				
Beloit	30.54	21.378	19.46	9.73
Edgerton	31.98	22.386	20.24	10.12
Evansville	32.04	22.428	18.84	9.42
Janesville	30.74	21.518	21.92	10.96
Milton	27.77	19.439	19.92	9.96
RUSK COUNTY				
Cities: Ladysmith	39.19	27.433	25.83	12.91
ST. CROIX COUNTY				
Towns:				
Richmond	26.75	18.725	19.37	9.685
St. Joseph	25.36	17.752	19.42	9.70
Somerset	30.58	21.406	22.49	11.245
Star Prairie	26.45	18.515	19.80	9.90
Troy	26.73	18.711	20.42	10.21
Villages:				
Baldwin	31.40	21.980	21.70	10.85
North Hudson	24.16	16.912	19.76	9.88
Cities: Hudson	29.47	20.629	19.32	9.66
SAUK COUNTY				
Towns:				
Baraboo	27.43	19.201	19.61	9.805
Reedsburg	30.31	21.217	21.63	10.815
Villages:				
Lake Delton	28.32	19.824	17.48	8.74
Prairie du Sac	32.86	23.002	21.15	10.575
Sauk City	32.69	22.883	22.81	11.405
Spring Green	32.69	22.883	20.19	10.095
Cities:				
Baraboo	30.78	21.546	18.79	9.395
Reedsburg	32.73	22.911	21.38	10.69
SAWYER COUNTY				
Towns: Hayward	24.71	17.297	17.04	8.52
Cities: Hayward	27.16	19.012	17.68	8.84
SHAWANO COUNTY				
Towns:				
Angelica	23.94	16.758	18.66	9.33
Belle Plaine	25.21	17.647	18.31	9.155
Maple Grove	23.99	16.793	18.51	9.255
Richmond	22.86	16.002	17.59	8.759
Wescott	24.11	16.887	17.95	8.975
Cities: Shawano	28.58	20.006	18.44	9.22
SHEBOYGAN COUNTY				
Towns:				
Greenbush	23.54	16.478	19.30	9.65
Herman	27.78	19.446	21.13	10.565
Holland	27.17	19.019	21.59	10.795
Lima	26.45	18.515	20.98	10.49
Lyndon	24.93	17.451	18.71	9.355
Mosel	27.39	19.173	20.99	10.495
Plymouth	22.32	15.624	17.60	8.800
Rhine	28.64	20.048	21.82	10.91
Scott	24.53	17.171	18.63	9.315
Sheboygan	23.57	16.499	21.29	10.645
Sheboygan Falls	27.40	19.180	22.16	11.08
Sherman	25.31	17.717	20.11	10.055
Wilson	23.78	16.646	18.99	9.495
Villages:				
Cedar Grove	33.95	23.765	24.96	12.48
Kohler	18.82	13.174	11.16	5.58
Oostburg	32.49	22.743	22.21	11.105
Rancom Lake	31.61	22.127	23.41	11.705
Cities:				
Plymouth	31.55	22.085	20.81	10.405
Sheboygan	35.31	24.717	26.35	13.175
Sheboygan Falls	34.16	23.412	25.69	12.845
TAYLOR COUNTY				
Towns:				
Little Black	32.61	22.827	19.40	9.70
Medford	29.65	20.755	17.75	8.875
Cities: Medord	34.93	24.451	20.50	10.25
TREMPEALEAU COUNTY				
Towns:				
Arcadia	29.92	20.944	17.56	8.78
Ettick	31.56	22.092	19.44	9.72
Gale	28.84	20.188	19.56	9.78
Hale	35.83	25.081	20.00	10.00
Preston	33.74	23.618	21.59	10.795
Trempealeau	29.35	20.545	19.85	9.925
Cities:				
Arcadia	36.78	25.746	29.64	14.82
Blair	40.19	28.133	23.15	11.575
Galesville	38.57	26.999	19.73	9.865
Independence	42.34	29.638	25.88	12.94
Osseo	37.69	26.383	21.46	10.73
Whitehall	38.74	27.118	22.97	11.485
VERNON COUNTY				
Towns:				
Bergen	26.96	18.872	18.29	9.145
Viroqua	29.90	20.930	20.80	10.40
Cities:				
Hillsboro	40.12	28.084	22.62	11.31
Viroqua	35.06	24.542	23.49	11.745
Westby	34.58	24.206	20.07	10.03
VILAS COUNTY				
Towns:				
Lac du Flambeau	17.21	12.047	10.70	5.35
Lincoln	13.96	9.772	10.25	5.125
City: Eagle River	21.99	15.393	10.90	5.45
WALWORTH COUNTY				
Towns:				
Bloomfield	25.11	17.577	20.33	10.165
Darien	28.60	20.020	24.74	12.37
Delevan	25.59	17.913	21.76	10.88
East Troy	25.70	17.990	19.91	9.955
Geneva	24.42	17.094	18.99	9.495
La Grange	25.44	17.808	20.21	10.105
Linn	21.94	15.358	15.51	7.755
Lyons	24.61	17.227	19.48	9.74
Richmond	26.66	18.662	12.35	10.675
Sharon	29.50	20.650	24.50	12.25
Spring Prairie	23.20	16.240	18.03	9.015
Sugar Creek	24.27	16.989	20.04	10.02
Troy	25.38	17.766	19.73	9.865
Walworth	24.04	16.828	20.08	10.04
Whitewater	28.31	19.817	23.08	11.54
WALWORTH COUNTY—Con.				
Villages:				
East Troy	30.11	21.077	22.25	11.12
Fontana	25.73	18.011	17.24	8.62
Genoa City	34.95	24.465	24.69	12.345
Sharon	35.14	24.598	26.80	13.405
Walworth	29.14	20.398	23.07	11.53
Williams Bay	28.09	19.633	29.35	9.675
Cities:				
Delavan	29.03	20.321	21.31	10.655
Elkhorn	29.23	20.461	20.19	10.095
Lake Geneva	27.87	19.509	18.70	9.35
Whitewater	35.95	25.165	22.90	11.45
WASHBURN COUNTY				
Cities:				
Spooner	32.42	22.694	23.89	11.945
WASHINGTON COUNTY				
Towns:				
Addison	23.26	16.282	18.56	9.28
Barton	28.10	19.670	24.52	12.26
Erin	29.64	20.748	26.09	13.045
Farmington	23.81	16.667	19.10	9.55
Hartford	30.42	21.294	26.02	13.01
Jackson	27.97	19.579	24.22	12.11
Kewaskum	21.02	14.714	19.77	9.885
Polk	19.82	13.874	16.91	8.455
Richfield	25.89	18.123	22.42	11.21
Trenton	27.72	17.404	25.92	12.96
Wayne	25.93	18.151	19.01	9.505
West Bend	25.88	18.116	24.55	12.275
Villages:				
Germantown	30.93	21.651	22.68	11.34
Kewaskum	27.69	19.383	20.75	10.375
Slinger	28.65	20.055	17.40	8.70
Cities:				
Hartford	34.43	24.101	26.25	13.125
Milwaukee	42.60	29.820	22.63	11.315
West Bend	35.39	24.773	27.23	13.615
WAUKESHA COUNTY				
Towns:				
Brookfield	22.54	15.778	20.03	10.015
Delafield	27.03	18.921	25.99	12.995
Eagle	27.30	19.110	24.80	12.40
Genesee	23.80	16.660	22.33	11.165
Lisbon	30.18	21.126	26.67	13.335
Merton	29.43	20.601	26.95	13.475
Mukwonago	26.14	18.298	25.48	12.74
Oconomowoc	25.19	17.633	22.20	11.10
Ottawa	25.36	17.752	23.65	11.825
Pewaukee	21.07	14.749	20.60	10.30
Summit	27.01	18.907	22.65	11.325
Vernon	29.09	20.363	26.92	13.46
Waukesha	18.60	13.020	19.13	9.565
Villages:				
Big Bend	33.45	23.415	30.06	15.03
Butler	30.04	21.028	24.15	12.075
Elm Grove	24.86	17.402	23.34	11.67
Hartland	36.56	25.592	30.02	15.01
Lannon	28.87	20.209	25.06	12.53
Menomonee Falls	29.93	20.951	22.98	11.49
Mukwonago	36.04	25.228	27.36	13.68
Pewaukee	32.75	22.925	25.60	12.80
Sussex	32.17	22.519	25.04	12.52
Cities:				
Brookfield	30.00	21.00	23.03	11.515
Delafield	29.08	20.356	24.83	12.415
Muskego	26.56	18.592	24.95	12.475
New Berlin	27.68	19.376	23.61	11.805
Oconomowoc	33.64	23.548	22.31	11.155
Waukesha	28.98	20.286	19.35	9.675
WAUPACA COUNTY				
Towns:				
Farmington	20.84	14.588	15.09	7.545
Larrabee	25.05	17.535	18.02	9.01
Little Wolf	27.20	19.040	20.46	10.23
Mukwa	26.35	18.445	18.98	9.49
Royalton	26.50	18.550	20.38	10.19
Cities:				
Clintonville	32.17	22.519	20.17	10.085
Manawa	31.74	22.218	23.77	11.885
Marion	30.40	21.280	19.23	9.615
New London	34.48	24.136	20.89	10.445
Waupaca	33.98	23.786	16.53	8.265
Weyauwega	32.66	22.862	23.82	11.91
WAUSHARA COUNTY				
Cities: Wautoma	31.53	22.071	20.05	10.025

Tax district	Total property tax rate (percent)	Total property tax rate (30 percent reduction)	Property tax rate for education (percent)	Property tax rate for education (50 percent reduction)
WINNEBAGO COUNTY				
Towns:				
Algoma	19.64	13.748	15.71	7.855
Black Wolf	23.25	16.275	19.35	9.675
Clayton	20.77	14.539	17.14	8.57
Menasha	22.29	15.603	16.79	8.395
Neenah	18.66	13.062	19.16	9.58
Nekimi	22.25	15.575	18.20	9.10
Omro	20.98	14.686	16.80	8.40
Oshkosh	20.18	14.126	19.18	9.59
Ruishford	21.40	14.980	16.53	8.265
Utica	25.34	17.738	18.89	9.445
Vinland	19.37	13.559	17.54	8.77
Winchester	22.74	15.918	17.47	8.735
Villages: Winneconne	20.81	14.567	17.07	8.535
Cities:				
Menasha	31.61	22.127	15.69	7.845
Neenah	30.46	21.322	19.51	9.755
Omro	26.10	18.270	17.57	8.785
Oshkosh	31.35	21.945	19.82	9.91
WOOD COUNTY				
Towns:				
Arpin	28.60	20.020	22.96	11.48
Grand Rapids	23.53	16.471	18.66	9.33
Lincoln	27.32	19.124	20.55	10.275
Marshfield	25.62	17.934	20.61	10.305
Port Edwards	21.67	15.169	22.74	11.37
Richfield	25.38	17.766	20.70	10.35
Rudolph	24.81	17.367	18.50	9.25
Saratoga	24.32	17.024	20.55	10.275
Seneca	20.02	14.014	17.88	8.94
Sigel	26.40	18.480	18.50	9.25
Villages: Port Edwards	24.09	16.863	18.70	9.35
Cities:				
Marshfield	31.12	21.784	17.93	8.965
Nekoosa	40.48	28.336	25.27	12.635
Wisconsin Rapids	33.38	23.366	20.58	10.29
MENOMINEE COUNTY				
Towns: Menominee	31.95	22.365	14.48	7.24

SUMMARY OF CONTENTS OF TAX REFORM BILL

Section 1—Short title

This section provides that the Act may be cited as the Tax Reform Act of 1972.

Section 2—Technical and conforming changes

This section provides that the Secretary of the Treasury shall, within 90 days after the date of the enactment of the Act, submit to the Committee on Ways and Means a draft of any technical and conforming changes in the Internal Revenue Code which should be made to reflect the substantive amendments made by the bill. The bill, for example, does not attempt to make all conforming amendments to the cross references provisions within the Code or to the various tables of contents in the Code.

TITLE I—AMENDMENTS PRIMARILY AFFECTING INDIVIDUALS

Section 101—Credit against tax for personal exemptions

This section provides a credit against tax for personal exemptions in lieu of the existing deduction from gross income for personal exemptions. The credit provided is $150 for each exemption.

Under present law, a deduction of $750 against gross income for a personal exemption is worth $525 to the taxpayer in the highest bracket, but only $107 to a taxpayer in the lowest bracket. Approximately 30 million taxpayers with adjusted gross incomes below $10,000 will receive a tax reduction under this amendment. At the same time, this section of the bill would increase tax revenues by approximately $1.9 billion a year.

This section also provides that if the taxpayer is claiming a child as a dependent (and thereby receiving a credit of $150 against tax), the parent shall include in his gross income any income received by the child during the taxable year from a trust created by the parent, and also any dividends, interest, or royalties received by the child from any property given to him by the parent. Income which is so taxed to the parent would not be taxable to the child. This provision will not apply if the parent does not choose to claim the child as a dependent.

Section 102—Repeal of $100 dividends exclusion

This section repeals the provision in present law that allows a taxpayer to exclude from gross income $100 of dividends received on corporate stocks. Present law gives no similar exclusion in the case of interest received on savings accounts, a much more common form of investment by individuals in the lower brackets.

Section 103—Repeal of deduction for gasoline taxes

State gasoline taxes paid as personal expenses are deductible in determining an individual's Federal income tax. Like the nondeductible Federal gasoline tax, the State gasoline tax is essentially a direct charge by the State for the highway facilities it provides to those on whom the charge is imposed. Its deductibility is inconsistent with the user charge character of the tax in that it serves to shift part of the cost from the highway user to the general taxpayer. Under this section, gasoline taxes paid as a business expense would continue to be deductible, but gasoline taxes paid as personal expenses would not.

This change was recommended by the Treasury in 1969, and would increase federal revenues by $350 million.

Section 104—Elimination of vacation resort houses as tax shelter

This section eliminates as tax shelters such items as beach cottages, condominiums at ski resorts, mountain cabins, and the like, which the taxpayer uses for pleasure and rents when he can in order to obtain tax deductions greater than the rentals. The amendment would also apply to the rental of a house which is used by the taxpayer as his principal place of residence.

Under the amendment deductions for depreciation, repair, insurance, agent fees in handling rentals, etc., would be allowed as deductions only up to the amount of interest and taxes paid (and deducted) on rentals received during the year reduced by the rental property. The rentals would not be taxed (except in the unusual cases where they exceed all expenses) because they would be offset by allowable deductions; but the excess costs for repairs, depreciation, insurance, etc., could not be used to shelter income from other sources.

Section 105—Disallowance of expenses attending conventions outside the United States

This section disallows expenses of travel (including meals and lodging) of an individual in connection with attending a convention held outside the United States. As a general rule, such expenses are incurred primarily for pleasure rather than business. Thus, expenses of lawyers attending the American Bar Convention in London in 1971 would have been disallowed if the amendment had been in effect. The amendment applies to expenses incurred after the date of the enactment of the bill.

Section 106—Farm losses:

The Tax Reform Act of 1969 provided for an excess deductions account in the case of farm losses in order to eliminate some of the tax shelter afforded by the use of the cash method of accounting in the case of farming. The Senate version of the Tax Reform Act of 1969 had provided for the disallowance of one-half of the farm loss as a deduction against nonfarm income, in lieu of the milder House provision for an excess deductions account. In order to deal more effectively with the problem of farm losses as a tax shelter, this section of the bill adopts, with some tightening modifications, the 1969 Senate provision on farm losses and eliminates the existing provision for the excess deductions account.

Section 107—Computation of earnings and profit on a consolidated basis

Some conglomerate companies have been paying dividends which are not fully taxable because the parent company does not have sufficient earnings and profits to cover the distribution although the consolidated group had earnings and profits during the year greater than the amount distributed. This section of the bill provides that the earnings and profits of a parent corporation for a year shall not be less for dividend purposes than the earnings and profits of the consolidated group for the year.

Section 108—Dividend on certain sales of stock

The Tax Court held that if a transaction is described in section 304 of the Code (which can produce dividend income of stock of one controlled corporation is sold to another controlled corporation) and is also described in section 351 (dealing with tax-free exchanges), then section 351 applies and not section 304. This section of the bill changes the rule of the Tax Court case and provides that the tax-free provisions of section 351 do not apply to the extent the application of section 304 produces an amount taxable as a dividend.

Section 109—Termination of stock option provisions

Under present law, an officer of a corporation is not taxed at the time he exercises a qualified stock option granted him for performance of services. If he sells the stock after 3 years, the compensation is taxed only as a capital gain. If he holds the stock until he dies, the compensation is never taxed. This section of the bill provides, in the case of options, options granted after 1971, that the compensation realized on exercise of a stock option will be taxed at the time of exercise as ordinary income.

The enactment of this amendment will be welcomed by many corporate shareholders. The liberal granting in the past of stock options has diluted, in some cases seriously, the equity ownership of shareholders of the companies who grant stock options. With the demise of tax free stock options, management will no longer have to explain or contend to shareholders that authority to grant stock options is necessary to attract or keep "key employees".

Section 110—Limitation on deduction for percentage depletion on royalties

The percentage depletion allowance is intended to provide an incentive for the discovery and development of oil and gas and other minerals. In the case of royalty income this incentive is generally meaningless. As one commentator asked with respect to the passive owner of an oil royalty: "What perils has he overcome in the quest for oil? To what extent has he been gambling with fate like a tenacious wildcatter?"

This section of the bill provides that the owner of a royalty cannot deduct percentage depletion after he has received depletion deductions in an amount equal to 4 times the amount he expended for exploration and development of the deposit from which he is drawing his royalty. In the usual case of a landowner who receives royalties from a lessee who did the exploration and development work, this would mean that no percentage depletion would be allowed. But the owner of an overriding royalty may have sub-leased the property after having first made expenditures for exploration and de-

velopment and he would be allowed percentage depletion of his royalty income until he has recovered 4 times his expenditures for exploration and development. This multiple of 4 times would apply even though the drilling or development expenditures were deducted when incurred.

Section 111.—Disallowance of certain double deductions

Present law provides that the expenses of administering an estate can be deducted by the executor on either the income tax return or the estate tax return, but not on both. The courts have held that expenses of the executor in selling property can be deducted on the estate tax return and can also be used on the income tax return as an offset against the selling price of the property. This section of the bill provides that such selling expenses cannot be used in the income tax return as an offset to the selling price if they are deducted as an expense of administration on the estate tax return.

Section 112.—Treatment of trust income payable to children of grantor

Under present law, a father can, in effect, deduct on his income tax return gifts to his children if he makes a gift out of income from stocks and agrees to do so for at least 10 years. To get that result, the parent need merely transfer stock to himself as trustee and agree to pay out to his children the income from that stock for 10 years, at which time the stock will be returned to him free of the trust. Use of short-term trusts in this manner is commonplace with affluent taxpayers who can afford to give some of their dividend income to their children.

This section of the bill provides that the income of such a trust will be taxed to the grantor (if he has a reversionary interest) so long as the income is payable to a child who is under the age of 21 years or who is attending college and is a dependent of the taxpayer for purposes of the credit for personal exemptions.

Section 113—Tax on capital gains at death

At the present time, when a taxpayer sells a capital asset which has appreciated, the gain is subject to income tax. But if he holds an appreciated asset until he dies, the appreciation is not subject to the income tax. Thus, suppose a taxpayer bought $5 million worth of stock in 1958, and the stock is now worth $15 million. If he sells the stock, he will have to pay a capital gains tax on the $10 million increase in value. But if he holds the stock and passes it on to his heirs, neither he nor his heirs will ever have to pay income tax on the amount that the stock increased in value while he held it. The heirs only pay income taxes on any increase in value after they inherited the stock.

This discriminates heavily in favor of rich people who pass large amounts of wealth on to their heirs. $15 billion a year falls completely outside the income tax in this way. Moreover, investors become "locked in" by the prospect of avoiding income tax completely if they hold appreciated assets until death rather than selling them. This freezing of investment positions curtails the essential mobility of capital, and prevents its flow toward areas of enterprise promising the greatest rewards. For these reasons, President Kennedy in 1963 and President Johnson's Treasury Department in 1969 recommended taxation of capital gains at death.

This provision would only tax the gains at death if the value of the estate was above $60,000.

(As a transition rule, any gain that occurred prior to January 1, 1960 would not be subject to tax). The whole tax would not be paid in the year of death, since the taxpayer would have the benefit of income averaging. Finally, it should be noted that taxing capital gains at death and then imposing the estate tax on the decedent's estate does not result in double taxation. This is because the estate tax is imposed on the estate net of the income tax that would be paid on the capital gains under this proposal.

Section 114—Repeal of exemption for earned income from foreign source

Under present law, citizens of the United States can exclude from gross income certain amounts of income they earn in foreign countries if they are present in the foreign country for 17 out of 18 months or if they become a bona fide resident of the foreign country. The exclusion is $20,000 a year if the taxpayer meets the 17 out of 18 month test and is $25,000 a year if he is a bona fide resident of the foreign country. This section of the bill denies such exclusion from gross income in the case of taxable years beginning after the date of enactment. The foreign tax credit will prevent double taxation of the income if the foreign country also taxes the earned income.

Section 115—Repeal of alternative capital gains tax for individuals

This section repeals the alternative capital gains tax for individuals. The tax was partially repealed by the Tax Reform Act of 1969. With this amendment one-half of all long-term capital gains (not offset by capital losses) would be taxed to the individual as ordinary income.

Section 116—Capital loss carryback for individuals

This provision grants relief to an individual who has an unused capital loss of at least $10,000 by allowing him to carry it back (as can a corporation) to the 3 preceding taxable years. Cases have arisen where a large capital gain in one taxable year is followed by a large capital loss in the following year which may never be utilized even with the unlimited carry forward.

The carryback is elective with the taxpayer. This will make the provision less of an administrative burden on the Internal Revenue Service, for in many cases the taxpayer would rather not file a claim for refund (and audit) of tax paid in a prior year if the loss can be used on a carryforward. Moreover, if the taxpayer elects to treat a net capital loss as a carryback, the amendment as a long-term capital loss even though it is made up completely or in part from short term losses.

The carryback cannot be used to offset ordinary income, although a carryforward can offset ordinary income up to $1,000 a year, and the carryback cannot produce or increase a net operating loss for a preceding taxable year. In the case of the death of the taxpayer a net capital loss for the year of his death can be carried back even though the loss is less than $10,000.

Section 117—Repeal of capital gain treatment for patents

Under the provisions of existing law, capital gain treatment is granted on the sale by an individual of a patent even though he is a professional inventor. This section of the bill repeals these provisions, so that the outright sale of a patent for a lump-sum by the person whose personal efforts created the property will produce ordinary income, just as the sale of a copyright does under existing law. In addition, this section provides that capital gain treatment will not be granted in any case where the owner (whether a corporation or an individual) of a patent enters into an agreement (whether or not it constitutes a sale, license, or assignment) under which the seller or assignor of the patent receives payments measured by a percentage of the selling price of articles produced by the buyer or transferee of the patent or where the amounts received by the seller or transferor are measured by production, sale, or use of the assignee or licensee. Periodic receipts of this kind with respect to the sale or transfer of a patent are properly treated as royalty income rather than capital gain income.

Section 118—Income tax treatment of certain gifts to members of family

It has become fairly common for an individual who has produced a copyright or a literary or musical composition which is producing royalty income to give it to his children or to a trust so that the income will be taxed less heavily. This section provides that where there is a gift of such property by the taxpayer to a member of his family, to a trust for the benefit of any member of his family, or to a corporation more than 50 percent owned by the taxpayer or his family, the taxpayer will be treated as having received ordinary income at the time of the gift in an amount equal to the fair market value of the property at that time.

Section 119—Repeal of 50-percent maximum rate on earned income

The Tax Reform Act of 1969 set a maximum tax rate of 50 percent on earned income (wages and salaries, professional fees, and self-employment income). The effect of this provision is to give significant tax reductions to business managers, highly paid lawyers, physicians, and other professionals, and successful businessmen who prefer to operate as sole proprietors rather than through the corporate form. A recent study concluded that in 1972, this 50 percent maximum tax would benefit an estimated 63,000 wealthy individuals at a cost to the Treasury of $103 million.

Section 120—Underpayments of estimated tax

This section provides that an individual cannot base his estimated tax payments on the prior year's tax (or at the current year's rates applied to the prior year's facts) if in any one of the 3 preceding taxable years the tax shown on his return was in excess of $100,000.

TITLE II—AMENDMENTS PRIMARILY AFFECTING CORPORATIONS

Section 201—Repeal of asset depreciation range system

In 1962, the Treasury issued guidelines specifying the number of years over which different kinds of assets could be depreciated. Through the "reserve ratio test", a direct link was maintained between the depreciation claimed by taxpayers and the actual "wearing out" of equipment. Taxpayers were not allowed to depreciate for tax purposes more rapidly than they were actually replacing the equipment.

In January, 1971, the Treasury announced some major changes. Businessmen were allowed to take guideline lives 20 percent shorter than previously. Thus, an asset which previously had a guideline life of 10 years could now be depreciated over 8 years. In addition, the reserve ratio test was repealed. These changes were given legislative approval in the Revenue Act of 1971.

The Asset Depreciation System (ADR) will reduce federal revenues $1.7 billion in 1972, $2.4 billion in 1973, and $3.5 billion by 1975. Over the 1970's, it will cost the Treasury a total of $27.5 billion.

This section would repeal the ADR system, and reinstate the reserve ratio test.

Section 202—Limitations on dividends received deduction

Subsection (a) of this section of the bill provides that the dividends received deduction cannot exceed 85 percent of taxable income (computed without regard to the net operating loss deduction or to any capital loss carryback). The chief effect of this is to change present law which allows a full deduction for 85 percent of dividends received if this deduction will produce or increase a net operating loss for the taxable

year. The amendment also provides that any amount disallowed for the taxable year because of the net income limitation shall be allowed as a deduction for the following taxable year if there is sufficient taxable income in that year. This gives the taxpayer a carryover which he does not have under present law.

Subsection (b) provides that dividends received from an unaffiliated corporation shall be reduced (for purposes of the dividends received deduction) by the amount of any interest on indebtedness incurred or continued to purchase or carry the stock of the unaffiliated corporation. An unaffiliated corporation is any corporation except one that is a competent member of a controlled group of corporations which includes the taxpayer.

This section of the bill also provides that if the aggregate amount of dividends received during the year from unaffiliated corporations (after first being reduced by any interest paid as provided in the preceding paragraph) exceeds the amount of dividends paid by the corporation during the taxable year, no dividends received deduction shall be allowed with respect to the excess. Thus, if no dividends are paid by the taxpayer, no dividends received deduction can be claimed for dividends received from unaffiliated corporations. However, the amount which is so disallowed shall be treated as a dividend received in the following year for purposes of the dividends received deduction. Moreover, if dividends paid during a taxable year exceed the dividends received during the year from unaffiliated corporations, the amount of the excess will be treated as a dividend paid in the following year for purposes of the dividends received deduction.

Section 203—Use of appreciated property to redeem stock

Under present law, if a corporation redeems stock with appreciated property, gain is recognized except in certain cases. One of the exceptions is where stock or securities are distributed pursuant to a court proceeding under the antitrust laws. This section provides that the stock or securities must have been acquired before January 1, 1970, in order for the exception to apply. It is not believed corporations which have violated the antitrust laws should have a tax benefit not available to other corporations who distribute appreciated securities.

Section 204—Denial of tax-free exchanges in case of investment companies

In 1966 tax-free exchanges of appreciated stock for shares of mutual funds (so-called swap funds) was brought to an end by an amendment which provided that section 351 of the Code would not apply to transfers to an investment company. This amendment did not complete the job. For years the Massachusetts Investment Trust, and other mutual funds, have been issuing their shares to acquire all of the stock or assets of family held personal holding companies, and these exchanges are treated under section 368 as tax-free reorganizations. This is nothing but swap funding to obtain diversification plus a readily marketable security. The amendment would make such exchanges taxable and it would also make mergers of two investment companies taxable.

Section 205—Recognition of gain on sales in connection with certain liquidations

If a corporation adopts a plan of complete liquidation and the liquidation is completed within 12 months, under existing law (section 337 of the Internal Revenue Code) the corporation is not taxed on gains realized on the sale of property during the period of liquidation. Gains on sale of inventory, however, are exempt from tax only if the inventory is sold in bulk to one purchaser. This exemption from tax in the case of a bulk sale of inventory has proved to be the main factor in some cases for deciding that a healthy corporation should go out of business in order to escape income tax profits to be realized on the sale of the inventory. Such profits constitute ordinary income taxable at the corporate rate of 48 percent. This section of the bill removes the tax exemption on the sale of inventory in a section 337 liquidation.

This section of the bill makes another amendment to section 337. A number of cases have been presented where the shareholders of the liquidating corporation have transferred, just before the corporation distributes its tax-free gains in liquidation, some or all of their stock to tax-exempt charities. As a result, no tax is imposed on the corporation and no tax is imposed on the gain which the shareholders would have had but for the transfer to tax-exempt charities. In addition, the shareholders take a charitable deduction for the full value of the shares which includes the untaxed gains. This section of the bill insures that one tax will be imposed in such cases by providing that if tax-exempt organizations receive X percent of the amounts distributed in liquidation, then the same percent of the gains realized by the corporation during the course of the liquidation will be subject to tax at the corporate level.

Section 206—Certain transactions disqualified as reorganizations

This section of the bill provides that there cannot be a tax-free reorganization if the shareholders of the smaller company involved in the transaction end up with less than 20 percent of the voting stock of the surviving corporation in a merger of the acquiring corporation in the case of a so-called B reorganization (stock-for-stock) or a so-called C reorganization (stock-for-assets). If a conglomerate company whose stock is listed on the New York Stock Exchange issues less 20 percent of its voting stock to acquire the stock or assets of a company whose stock is not listed, it is more realistic to treat the shareholders of the unlisted company as having sold out for a marketable security rather than having taken a part in a reorganization of their company. A similiar provision was contained in the House version of the Internal Revenue Code of 1954.

Section 207—Repeal of special treatment of bad debt reserves of financial institutions

This section of the bill provides that banks and other financial institutions who now are allowed to take special deductions for reserves for bad debts will, in the case of taxable years beginning after 1971, compute any addition to a reserve for bad debts on the basis of the actual experience of the taxpayers, the rule which is applied to all other corporations.

Section 208—Exploration and development expenditures in the case of mines

Under present law, exploration expenditures in the case of a mine are chargeable to capital account, unless the taxpayer elects to deduct such expenditures subject to recapture (through reduction of the depletion allowances) if and when the mine reaches the producing stage. Expenditures in developing a mine, however, are deductible without being subject to any recapture rule. This section of the bill treats development expenditures in the case of a mine in the same manner as exploration expenditures. Exploration and development expenditures for deposits outside the United States are not deductible under these provisions, and must be charged to capital account.

Section 209—Repeal of deduction for western hemisphere trade corporations

This section of the bill repeals the special deduction now allowed domestic corporations who obtain most of their income from foreign countries in the Western Hemisphere.

Section 210—Taxation of undistributed profits of foreign corporations

At the present time, American corporations do not have to pay taxes on the earnings of their controlled foreign subsidiaries until these earnings are brought home. In 1961, President Kennedy proposed the repeal of this tax deferral, but his proposal did not pass Congress.

The tax deferral for the earnings of foreign subsidiaries creates an incentive for U.S. corporations to set up plants abroad, since they can defer taxes on the earnings of these plants. This provision would tax these earnings on a current basis, at a savings to the Treasury of $170 million a year.

Section 211—Repeal of the tax exemption for a DISC

Under a provision of the Revenue Act of 1971, a U.S. export firm can set up a paper corporation (known as "DISC"), channel its exports through its DISC, and thus escape 50% of the corporation income tax on its export earnings. This provision would close this new loop-hole and subject export earnings to the same tax rates as exist for other kinds of income. Savings: $170 million the first year and increasing amounts thereafter.

Section 212—Involuntary conversions

This section provides that if gain on an involuntary conversion of property is not recognized because the taxpayer purchases stock of a corporation owning property of the kind which was converted, the basis of that property in the hands of the corporation shall be reduced by the amount of gain not recognized on account of the purchase of the stock.

Section 213—Computation of underpayments of estimated tax

This section of the bill provides that a corporation cannot compute its estimated income tax payments on the basis of the prior year's tax (or on the basis of the prior year's facts and the current year's rates) if in any one of the 3 preceding taxable years the tax shown on its return was in excess of $300,000.

TITLE III—AMENDMENTS AFFECTING INDIVIDUALS AND CORPORATIONS

Section 301—Rental real property

This provision would limit the allowable depreciation on rental real estate to straight-line. Thus, if a building has a "life" of 50 years, the taxpayer would be limited to depreciation of 2 percent of its cost in any one year. The use of accelerated depreciation methods has been a major feature of the rental real estate tax shelter.

In addition, this section would treat interest and property taxes paid during construction as capital expenses to be recovered over the life of the property. This would prevent investors from using large tax "losses" during the construction period from sheltering income from other sources. After construction, interest and property taxes would be deductible only to the extent of rents received, reduced by the other expenses and depreciation of the building.

Section 302—Charitable gifts of appreciated property

Under an amendment made by the Tax Reform Act of 1969, if capital assets which have appreciated in value are given to a private foundation, the charitable deduction is reduced by one-half of the capital gain the individual would have had if he had sold the property at fair market value. This section of the bill extends this rule to gifts of appreciated property to any charity.

Section 303—Computation of net operating loss deduction

This section of the bill overrules a decision of the Tax Court which held that a net operating loss which is carried back or forward does not have to be reduced by long-term

capital gains in an intervening year if the alternative tax was paid on the capital gains. This amendment provides that capital gains are taken into account, for this purpose, in the same manner as other gains. Prior to the Court decision, capital gains have never received preferential treatment for net operating loss purposes. The amendment applies only in computing deductions for taxable years ending after the date of the enactment of the bill, but it is provided that in the case of earlier taxable years no inferences shall be drawn from the fact that the amendment does not apply retroactively.

Section 304—Intangible drilling and development costs in the case of oil and gas wells

At present, intangible drilling and development costs may be deducted as current expenses in calculating taxable income rather than spread over the useful life of the well. This section requires that these costs be capitalized except in the case of a dry hole. It would save the Treasury $750 million in the first year, and $300 million a year on a long term basis.

Section 305—Capital expenditures in planting and developing fruit and nut groves

Present law requires the capitalization of expenditures incurred in planting citrus or almond groves. This section of the bill would extend the rule of capitalization to any fruit or nut grove planted after June 30, 1971.

Section 306—Reduction of percentage depletion rates on oil and gas and certain other minerals

At present, the oil depletion allowance allows oil producers to receive 22 percent of the gross income from their oil wells tax free—so long as it does not exceed 50 percent of net income. In theory, this is to compensate the oil man for the fact that the oil in his well is being used up, or depleted, by production, in the same way that other businessmen are allowed to take deductions for the depreciation of their plant and machinery. Unlike other industries, however, the oil depletion allowances continues year after year as long as the well keeps producing—it does not stop when the cost of the well is recovered.

As a result of this provision, the Treasury estimated in 1966 that the cost of the average well was being recovered 19 times. At that time, the 20 top American oil companies made $4¾ billion in profits, yet they paid federal income taxes at the rate of only 8½ percent. In 1970, these same companies earned $8.9 billion, and paid 8.7 percent of it in taxes.

In 1969, the Treasury made available a study—the CONSAD study—that it had commissioned to determine the effectiveness of the present tax treatment for oil and gas. The major conclusion of that study was that the present tax mechanism for assistance to these activities, if assistance was needed, was quite wasteful.

This provision would place a 15 percent ceiling on all mineral depletion allowances. This is similar to the recommendation made by President Truman in 1950. It would save the Treasury about $400 million a year.

Section 307—Limitation on aggregate deductions for percentage depletion

This section of the bill provides that the aggregate deductions of a taxpayer for percentage depletion on oil and gas and other minerals cannot exceed one-half of the taxpayer's taxable income from all mineral properties, computed without regard to percentage depletion and as if all the properties (whether or not in production) were a single property. By comparison, Canada grants a percentage depletion deduction of ⅓ of the aggregate net income from all mineral properties, without a limitation based on separate properties. This amendment does not disturb the existing limitation that percentage depletion in the case of a mineral property cannot exceed 50 percent of the taxable income from that property. The amendment is a limitation on the aggregate of the percentage depletion deductions, first computed separately for each property.

Section 308—Repeal of capital gain treatment for timber and for coal and iron ore royalties

This section of the bill repeals the provision of existing law which grants capital gain treatment on the cutting of timber and for coal and iron ore royalties.

Section 309—Repeal of tax exemption for ships under foreign flag

This section of the bill repeals the provisions of existing law which state that a non resident alien of a foreign corporation (even though 100 percent owned by a U.S. corporation or an American citizen) is not taxable on income derived within the United States from the operation of ships documented under the laws of a foreign country which grants an equivalent exemption to United States citizens or corporations.

Section 310—Limitations on foreign tax credit

The first amendment made by this section of the bill provides that a foreign tax credit shall not be allowed for any foreign tax on income which is excluded from the taxpayer's gross income so far as the Federal income tax is concerned. In addition, any foreign income tax paid on a gain realized by an individual or domestic corporation which is not recognized under the Internal Revenue Code would likewise be a non-creditable tax. The basic rationale for this amendment is that the foreign tax credit is supposed to eliminate double taxation on income. If the United States does not tax the income, there is no reason to give credit for the foreign tax paid on that income by the taxpayer.

The second amendment made by this section provides that the foreign tax credit shall be subject to both the per country limitation and the overall limitation. This was the applicable rule from 1932 to 1954.

The third amendment made by this section provides three new rules with respect to the treatment of capital gains for foreign tax credit purposes. The first rule is that in computing taxable income for purposes of the per country and overall limitations, there shall be excluded any capital gain which is treated as income from sources outside the United States unless the gain is taxed by a foreign country. Most capital gains are not taxed by foreign countries and treating such capital gains as foreign income for purposes of the limitations can result in a reduction of the tax which the Federal Government receives on income of the taxpayer from United States sources.

The second new rule is that there shall be excluded, in computing taxable income for purposes of the limitations, any long-term capital gain which is from sources within the United States. This change operates only in favor of the taxpayer. Under present law, if a corporation pays a foreign tax of 48 percent on the income earned abroad, the per country limitation will not allow a full credit for that tax if there are long-term capital gains in the United States, since such gains are taxed at less than the 48-percent rate.

The third rule added by the amendment is that for purposes of the limitations the United States tax (against which credit can be taken) shall be reduced by the United States tax on any capital gain excluded from taxable income under the two rules described above.

Section 311—Holding period of capital assets

This section provides that a capital asset must be held for more than 12 months, rather than 6 months, to qualify as a long-term gain. This provision was in the Tax Reform Act of 1969 as it passed the House.

Section 312—Gain from the sale of certain property between related persons

This section expands the scope of section 1239 of the Code which now treats as ordinary income any gain on the sale of depreciable property between a husband or wife or between one individual and a corporation which is more than 80-percent owned by that individual (or by his spouse and minor children and grandchildren). Section 1239 was designed to prevent a step-up in basis of property subject to depreciation by paying only a capital gains tax on the amount of the step-up.

This amendment expands section 1239 so that it applies to sales between a trust and the grantor or beneficiary of the trust, and to sales between corporations which are component members of the same controlled group of corporations. It also covers a sale where several individuals as co-owners sell property to a corporation which they control.

The amendment also extends the scope of section 1239 to sales of land, if the land is held by the purchaser for sale to customers in the ordinary course of a trade or business. At the present time a taxpayer can sell land which he holds for investment to a wholly owned corporation for subdivision and sale to customers, and the corporation receives a step-up in basis (for purpose of computing ordinary income on sales) at a cost to the seller of only a capital gains tax. This amendment would treat the seller's gain as ordinary income.

Section 313—Recapture on sale of purchase price previously deducted

Section 1245 now provides for recapture of depreciation previously deducted (after 1961) on personal property if the property is sold at a gain. That is the gain to the extent of the prior depreciation deductions since 1961 is treated as ordinary income rather than capital gain.

This amendment provides the same rule of recapture if the taxpayer deducted the purchase price of the property as an expense when he acquired it. Thus, if a lawyer deducts the purchase price of periodicals and other books as he acquires them, any gain on the subsequent sale (to the extent of the amount previously deducted) would be ordinary income. Likewise, if the lawyer gave the books to a charity, the charitable deduction would be reduced by the amount of ordinary income he would have had if he had sold the books. This reduction would occur under the existing provisions of section 170(e) of the Code, taking into account the amendment of section 1245 by this section.

Section 314—Recapture of depreciation on sale of real property

This section of the bill provides that if depreciable real property is sold at a gain, the gain shall be treated as ordinary income to the extent of depreciation taken on the real estate for periods after June 30, 1963. This provides for real estate the same rules that are applied under existing law for recapture of depreciation on personal property which is sold at a gain, except that all depreciation deducted after 1961, instead of June 30, 1963, is taken into account in the case of personal property.

TILE IV—AMENDMENTS OF MINIMUM TAX ON TAX PREFERENCES

Section 401—Minimum tax

Although the Tax Reform Act of 1969 adopted a minimum tax on tax preferences, it remains possible for individuals with very high economic incomes to pay, literally, no federal income tax. This is possible primarily because state and municipal bond interest and intangible drilling costs are not treated as tax preferences under existing law for purposes of the minimum tax. The amendments made by this section of the bill, together with section 304 of the bill pertain-

ing to intangible drilling and development costs, and sections 601 and 602, pertaining to the interest on state and municipal bonds, will insure that almost no one with a high income can continue to avoid payment of federal income taxes.

This section makes a number of amendments to the existing provisions of the minimum tax. First, it repeals the provision of existing law that allows regular income taxes to be deducted from the items of tax preferences.

Second, the $30,000 exemption for tax preferences is reduced by the bill to $12,000.

Third, it increases the minimum tax rates to 50 percent of the regular income tax rates.

Fourth, the following items are added to the list of items which constitute tax preferences:

(1) tax-exempt interest on state and local bonds;

(2) credit allowed for the investment credit on depreciable property;

(3) deduction of charitable contributions to the extent attributable to appreciated property; and

(4) the amount of amortization for coal mine safety equipment.

Another provision is added to avoid a tax on an item of preference if the taxpayer obtained no tax benefit from the item. This provision will permit a taxpayer to elect to waive the deduction of an item of tax preference, or to treat a capital gain as ordinary income, in which case the item would not be taken into account for the minimum tax. However, such waiver can be made only at such time, and subject to such terms and conditions, as may be set forth in regulations promulgated by the Secretary or his delegate.

Finally, this section of the bill strikes from existing law the provisions which treat tax preferences attributable to foreign sources more favorably than preferences attributable to sources within the United States.

TITLE V—ESTATE AND GIFT TAX AMENDMENTS

Section 501. Integration of estate tax rate with inter vivos gifts

The main defect of the present estate and gift tax system is that it discriminates in favor of those who give away their wealth partly through life-time gifts and partly at death, as against those who pass on all their wealth at death. In part, this is because both the gift tax and estate tax schedules are progressive. Thus, the man who transfers property both by gift and at death gets to start at the bottom of two separate, progressive rate structures. In practice, as pointed out in the 1968 Treasury *Studies and Proposals*, this is primarily of benefit to the very rich.

Thus, if a decedent made gifts of $2 million during his lifetime and leaves $3 million at his death, the rate of tax on the $3 million starts with the bottom tax brackets and produces a much smaller tax than would be produced if the $3 million were "stacked" on top of the $2 million lifetime gifts. The result is that wealthy individuals can substantially reduce the tax on transfers of property by making substantial gifts during lifetime.

This section of the bill would integrate the estate tax rate with *inter vivos* gifts so that the tax brackets for property transferred at death are determined by the amount of taxable gifts made during the decedent's lifetime (and after 1971). Under this amendment, a tentative tax is first computed on the amount of the taxable estate at death increased by the amount of the taxable life term gifts (made after 1971) plus the gift tax paid by the decedent on those gifts. Then, a second tentative estate tax is computed on an amount equal to such gifts plus the gift taxes paid. The difference between the two tentative taxes constitutes the estate tax payable on the property transferred at the time of death.

Section 502—Transfers taking effect at death

Before the enactment of the 1954 Code, if a taxpayer transfererd property to a trust which provided that the income should be accumulated during the grantor's life and upon his death the trustee should pay the corpus and accumulated income to his children, such a transfer was included in the decedent's gross estate as a transfer taking effect at death. The 1954 Code provided that such a transfer will be included in the gross estate only if the decedent retained a reversionary interest equal to 5 percent of the value of the property. This section of the bill strikes out the 5-percent reversionary interest test since it is completely a non sequitur in a statute which imposes an estate tax on a lifetime transfer of an interest which can be possessed or enjoyed only by surviving the transferor. This amendment would apply to transfers made after December 31, 1971.

Section 503—Life insurance included in gross estate

Prior to the 1954 Code, life insurance on a decedent's life was includible in his gross estate to the extent he paid the premiums on the policy. In such case it was immaterial whether he had given the policy to members of his family before his death. This section of the bill restores the premium payment test in the case of life insurance, so that the insurance will be included in the insured's gross estate in the ratio that the premiums paid by the decedent on the insurance policy bears to all premiums paid on that policy. In applying this rule the premiums paid by the decedent before July 1, 1971, shall not be included in the numerator of the fraction but would be included in the denominator.

Section 504—Charitable deductions in the case of estate tax

The first amendment made by this section of the bill provides that a charitable bequest will be deductible for estate tax purposes only if it is to be used predominantly within the United States or its possessions. Under present law, a citizen of the United States can give his entire estate to a church located in Germany or to an orphanage in Israel and no Federal estate tax will be imposed on his estate.

The second amendment places a limitation on the charitable deduction for estate tax purposes, similar to what we have for the income tax. Under present law, a decedent can give his entire estate to a private foundation created by his will, and no Federal estate tax will be imposed. This amendment states that the aggregate charitable deduction shall not exceed 50 percent of the gross estate reduced by the debts of the decedent and the expenses of administration.

The third amendment deals with the interplay of the charitable deduction and the marital deduction for estate tax purposes. The marital deduction cannot excede 50 percent of the adjusted gross estate (gross estate less debts, losses, and expenses of administration). Cases have arisen where executors have claimed, in order to raise the amount of the adjusted gross estate for purposes of the marital deduction, that transfers made to charities during the decedent's lifetime were includible in the gross estate. Increasing the gross estate for such lifetime transfers produced no estate tax for the charitable deduction was increased by the same amount, but a larger maximum deduction was allowed for bequests to the surviving spouse. This amendment provides that in computing the adjusted gross estate there shall be excluded any transfer made by the decedent during his lifetime if an estate tax charitable deduction is allowed for that transfer.

Section 505—Generation-skipping transfers

This section would impose a special tax on property passed on through generation-skipping trusts.

Under present law, it is possible to partially avoid the estate tax by transferring property to grandchildren or great grandchildren without a transfer tax being paid by the intervening generation or generations. The wealthier the family, the greater the opportunity for arrangements of this kind. This provision—similar to one recommended by the Treasury in 1969—would close this loophole.

TITLE VI—STATE AND LOCAL OBLIGATIONS

Section 601—Interest on certain governmental obligations

At present, interest from state and municipal bonds is tax-free. This allows local governments to raise badly needed funds at relatively low interest rates. Unfortunately, it also provides an easy vehicle for the wealthy to avoid taxes. Under the Tax Reform Act of 1972, local governments can continue to issue tax-exempt bonds; alternatively, they can issue taxable bonds and receive a federal subsidy of 50 percent of the interest cost. This would raise little or no money for the federal government, but it would save considerable amounts for local governments electing to use the new system. A similar provision was adopted by the House in 1969.

Section 602—United States to pay 50 percent of interest yield on taxable issues

This section provides that the Federal Government will pay 50 percent of the interest cost of taxable bonds issued by state and municipal governments.

Mr. NELSON. Mr. President, I also ask unanimous consent that the following statement in support of my Tax Reform Act of 1972 by Senator HUMPHREY be printed in the RECORD. I also ask unanimous consent that an address on the subject of taxes given by Senator HUMPHREY in Fond du Lac, Wis., be printed in the RECORD at this time.

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

STATEMENT BY SENATOR HUMPHREY

I am pleased to join with the junior Senator from Wisconsin in sponsoring one of the most comprehensive tax reform proposals presented in this session of Congress.

Our tax structure needs fundamental and wide-scale reform. We need equity and fairness in a tax system that is presently rigged against the working man, against the average family, against the average citizen.

The time has come for a new tax system, a system that says to the wealthy, to the superrich, to big business, to the large banks—you must pay your fair share.

The legislation I am cosponsoring with Senator Nelson takes us a large step towards meaningful tax reform.

No longer will it be possible for giant oil companies to make over $8 billion a year and still pay less than ten percent of their total income in taxes.

No longer will the wealthy have tax free sources of income.

No longer will big business get a special deal through dummy export corporations and fast depreciation write-offs.

No longer will less than ten percent of our people be able to use all sorts of tax dodges and tax shelters to avoid paying taxes.

And, no longer will millionaires be able to escape paying taxes.

The legislation being introduced today would raise about $16 billion a year in new revenue. This money could be and should be used to directly reduce the burden of property taxes on American homeowners.

We have estimated that if all this additional revenue is returned to states and localities, property taxes could be reduced by about one-half for all the homes, farms, and businesses in the nation.

Mr. President, this is a step we must take. We simply must reduce the burden of taxes on our people. Right now, the average man works about 15 hours of every forty hour week to pay for his taxes. There are Federal and state taxes on his income, propery taxes, telephone taxes, cigarette taxes, gasoline taxes, sales taxes, occupational privilege taxes, amusement taxes, gift taxes, inheritance taxes . . . the list is almost endless.

Our citizens have been taxed almost to the breaking point. Yet, some citizens are not taxed at all, for they can hire high priced tax lawyers to figure out loopholes that allow them to escape paying taxes.

This is unfair. And, the loopholes must be closed.

The bill being introduced today is specific. It would make frontal attack on the following loopholes:

Exclusion from dividends.

Deduction for state gasoline taxes.

Tax capital gains at death.

Oil depletion allowance.

Capitalization of mineral exploration and drilling cost.

Repeal the asset Depreciation Range.

Tax income of foreign subsidiaries of U. S. Corporations.

Repeal the Domestic International Sales Corporation.

Federal interest subsidy for municipal bonds.

Extend the holding period for capital assets.

Alter the charitable deductions in case of appreciated caiptal.

Depreciation on rental real estate to be straight-line.

Strengthening the minimum tax.

Increase the minimum tax.

Integrate estate and gift taxes into one tax.

Tax generation skipping trusts.

Limit charitable deduction for estate purposes.

Mr. President, closing these loopholes is a downpayment on the kind of tax system we ought to have. I support this legislation I intend to do what I can to have it enacted. I know that enactment will not come easy. But, I believe that the voice of the people has been heard. They want action and they want it now.

On February 26, 1972, I spoke on the subject of tax return at Fond du Lac, Wisconsin. In that speech, I outlined the kind of tax program I thought necessary to restore the confidence and credibility of our people to government.

I am especially pleased to cosponsor this legislation because I feel it embodies the thrust and direction of that speech.

REMARKS BY SENATOR HUBERT H. HUMPHREY, FOND DU LAC COUNTY DEMOCRATIC DINNER

It is two and a half months before April 15—tax day for the American people.

On that day the Internal Revenue Service will process 92 million tax forms and our Treasury will collect $125 billion.

If all Americans paid their fair share the Treasury could collect $18 billion more and your tax burden would be less.

But some few Americans don't pay their fair share and because they are allowed to do this, you pay higher taxes.

Today I want to talk to you about the inequities of our tax system and outline my action program to change this system.

Federal, state, and local governments collect more than $275 billion a year in taxes.

Less than two percent of the people receive 22 percent of the income and pay less than 10 percent of the taxes.

But the working man making between $8,000 and $15,000—that's 26 percent of the people—make 20 percent of the total national income but pay 36 percent of the taxes.

I believe this system is unfair.

The federal tax system is rigged against you—the working man.

It is rigged against the wage earner.

It is rigged against the average family.

And, it is rigged in favor of unearned income.

Our tax system penalizes the little man who works and rewards wealthy investors who get checks from stocks, bonds and large dividends.

The time has come for tax reform.

The time has come for tax justice—tax justice for the American working family.

The time has come for a tax system that says to the wealthy, to the super-rich, to big business, to the banker—you must pay your fair share.

All of us have a stake in the growth of this nation.

All of us want to get ahead—to save money, buy a home and perhaps some land, to send our children to college and have a decent income and security when we're older.

Some may say these things are part of the American dream. But I say they're not just dreams, they're rights—they belong to you.

But what has happened?

It is getting more and more difficult to have these good things in America today.

It is more difficult to earn, more difficult to save because the American tax system takes a bigger and bigger bite out of your pockets every year.

We have a tax system that few can understand. But those few who do often use it to their own advantage.

It is the responsibility of government to see that taxes are just and that no one gets a special deal.

But under Nixon Republicanism, the Treasury Department of the United States government—the Treasury Department which belongs to you and to me—has become a lobbyist and advocate for special interest.

The Treasury Department is now the blocking back for big business Republicanism, and the little guy has no one running interference for him in Washington.

I want to tell you what the Nixon Treasury has done.

It proposed legislation which allows a few big businesses to set up tax-free dummy corporations to sell their goods overseas. I fought against such legislation.

It has sponsored legislation to permit corporate giants a super-fast write-off on their machinery saving them over 5 billion a year.

It fought against increasing the amount of money you can deduct for yourself, your wife, and your kids.

Who was fighting for you? Not the Nixon Administration.

And my friends, in the dark marble halls of the Treasury, faceless political appointees quietly shoved aside a 1969 provision of the tax law that says everyone must pay at least some minimum tax.

And what has been the result?

Two weeks ago we found out that in 1969 and in 1970 over 300 Americans making better than $200,000 a year paid no income tax at all.

Could this happen to you? When was the last time you didn't pay any taxes on the income you earned?

The working man doesn't have any friends in the Nixon Administration. He doesn't have a special line on his tax form. But he pays more taxes than some millionaires.

Now, I'm not out to damage American corporate interests. I'm for a thriving free enterprise system. I'm for economic expansion. But that goal is best served by equity and justice in the tax system.

My legislation performance on tax and fiscal policy is clear—it's a matter of public record. The American tax system must stand for fairness—not special privilege.

Regrettably that tax system is now riddled with what we commonly call tax loopholes.

Here are just a few that must be closed:

Loophole No. 1: Is it fair that one giant oil company earning over $2.8 billion a year is permitted to pay less than 10 percent of its total net income in taxes? While at the same time a working man who makes only $8,000 a year pays exactly the same percentage rate?

Is it fair? I say no.

Loophole No. 2: Is it fair that big business got a $9 billion tax break from Richard Nixon in the Revenue Act of 1971 through superfast machinery write-offs and phoney export devices?

I say no.

Loophole No. 3: Is it fair to the family farmer who struggles to make a living and pays high taxes while doing it, that doctors and lawyers with big incomes play weekend farmer by buying farm property and growing tax deductions?

I say no. If you want to deduct your farm losses, then give up the courtroom, the panneled office and go drive a tractor.

Loophole No. 4: Is it fair and was it necessary for the Nixon Administration to permit and force working families to pay the highest interest rates since the Civil War?

I say it's not fair and it wasn't necessary.

Loophole No. 5: Is it fair for 10 percent of our people to use all sorts of tax dodges and tax shelters to avoid doing what you must do—pay taxes?

I say no. The tax avoidance game is over.

There are many more.

And I want to ask you now: Is it fair knowing that we can raise over $18 billion a year by closing loopholes for the Nixon Administration to propose a new tax burden on the American consumer in the form of a giant sized national sales tax?

I say no. No matter what the Republicans call it, the new value added tax will add to the cost of living, will be regressive on all of us, will erode community tax bases and ultimately it will be used to reduce the taxes of the wealthy.

Today America is privately wealthy and publicly poor. We see public poverty all around us. Our streets need fixing, our hospitals are inadequate, our transit system is 50 years out of date, our airports are congested and unsafe, and we have too few ships carrying our flag.

We need to modernize our docks. We need jobs for our people. And too many Americans live in the fear of crime.

Let's not kid ourselves. Correcting our problems is going to take money.

But closing the loopholes I have suggested today will bring over $18 billion to the treasury.

That's a start. That's a down-payment on clean and safe neighborhoods, better schools, more good housing and lower property taxes.

Our country can survive only if its institutions and values are supported by the people.

When three million of our elderly are forced to overpay their taxes because of complex tax forms, when the wealthy can hire high-priced tax advisors to cut their taxes, and when billions are made from investments and taxed at half the regular rate, then the people have a right to believe our tax system is unfair. That some are benefitting at the expense of others. That the tax system is rigged against the working man.

Any reform on the American tax system will require the courageous and persistent leadership of a President.

Over 30 years ago Franklin Roosevelt said: "The test of progress is not whether we add to the abundance of those who have much; it is whether we provide enough for those who have too little."

The test of progress is much the same today.

We can only begin to meet that test if our

tax system is fair and if government fights again for the little guy—for you and me and for our families.

Mr. NELSON. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Minnesota (Mr. MONDALE) is recognized for 15 minutes.

Mr. MONDALE. Mr. President, I yield to the Senator from California (Mr. TUNNEY).

Mr. TUNNEY. Mr. President, beyond the area of fundamental individual rights, there is nothing of more crucial importance to the justice and equity of government than fair taxation.

In a nation born out of a revolution that was sparked by a sense of outrage at unjust taxation, it is sadly ironic that our present system of taxation has been diverted so far from the path of justice and equity. Instead of spreading the burden of the cost of government fairly through society, its structure has been so warped with special exemptions and distorted with hidden subsidies that it serves to counteract many of the social policies which positive programs seek to implement.

Instead of taxing "incomes, from whatever source"—as our Constitution says—it excludes many forms of unearned income and thereby commits itself to placing far heavier imposts on the average wage earner than would otherwise be necessary.

Instead of sharing the cost of Government among the people according to their ability to pay, it contains numerous loopholes which only the wealthy or the powerful are able to exploit, or through which the wealthy and powerful win disproportionate benefit.

Instead of embodying the rightful sharing of costs, it has become the vehicle by which those who can afford to pay, and who should pay heavily, are able to avoid their fair share, and the bottom line is always the same—those with low or moderate income have to pay far more than they rightfully should.

The worker's pay packet is made thinner so the bank balances of the wealthy can grow fat.

It is time that the special tax subsidies for the privileged were swept away in the interests of tax justice for all.

Not only does this discrimination at the Federal tax level take place too great a burden on those least able to bear it, it also throws far too much responsibility on the taxing resources of State and local governments. In particular, it has forced the property tax into undesirable and unnecessary prominence. With such a weight of responsibility placed on it in the field of education alone, it bears down with special inequity on those with moderate resources.

The property tax is simply not structured to service such a demanding area of expenditure. Any meaningful tax reform must address itself to the relief and replacement of this burden. It is no substitute to resort to yet another tax, whether it is a national sales tax, a value-added tax, or anything else. The answer does not lie in yet another layer of overlapping taxes. It lies in setting the present house in order.

The Tax Reform Act of 1972 which we are introducing today does not by any means provide the whole answer to our tax problems, but it does represent a very significant and urgently necessary first step. Apart from moving toward a more just distribution of the cost of government among those able to pay, it would immediately provide urgently needed fiscal relief to State and local governments. It would make available an additional $16 billion to $17 billion for tax sharing.

This would be enough to pay almost 40 percent of all State and local costs of primary and secondary education throughout the Nation. In 1971 figures, it would make it possible to cut all property taxes on homes, farms, and businesses by 44 percent.

It would provide $1.55 billion or more to California alone.

The great problem with any tax preferences or loopholes which are worked into the structure of government finance is that they hold in themselves the seeds of multiple inequities.

To begin with, because of the progressive character of the tax rates, they generally benefit the rich many times more than the poor. The $750 personal tax exemption, for example, is worth only $107 in actual tax savings to the taxpayer in the lowest tax bracket. But it is worth $525—nearly five times as much—to someone in the highest bracket.

Converting this to a tax credit of $150 for all, as this reform bill provides, would not only reduce taxes for about 30 million taxpayers with incomes below $10,000, it would also bring in an extra $1.9 billion a year from those who can afford to pay it.

At the same time, tax preferences are generally more available to those who have great financial resources than to those with few. Take the capital gains tax. Every year the Federal Treasury loses about $8 billion in revenue because 50 percent of all capital gains on invested wealth are free from tax.

The loophole is available to anyone—provided they have the resources to take advantage of it. The actual result is that only one taxpayer in 20 with income under $10,000 has the chance of using it at all. And because his capital gains are so small, and his tax rates are so low anyway, he and the rest of his income group end up with only a meager 1 percent of the tax concession. But over half of it goes to those with income of more than $100,000 a year.

This is one of the major reasons why in 1970 some 112 persons with incomes of more than $200,000 a year—including three millionaires—paid no tax at all.

The legislation being introduced today would make the first move against this imbalance in the tax structure, first, by requiring that assets should be held for 12 months before capital gains on them qualify for preferential tax treatment. But it would also save about $2 billion in revenue by taxing all gains when the property is transferred at death. At present very wealthy families are able to avoid even the low capital gains tax by holding the assets within the family from generation to generation. Not only does this result in a great loss of revenue, it also injects an undesirable element of rigidity into investment decisions.

Loopholes are also used as a means of providing unjustifiable subsidies to particular sections of the economy. The oil depletion allowance is a prime example of this fact. With the aid of this ultra-generous measure, the biggest oil companies have been paying taxes at a final rate of less than 10 percent on incomes amounting to several billions of dollars. For the allowance not only permits the oil people to depreciate their wells 22 percent a year, it does not require them to stop when they have accounted for the total value of the well. As a result, the Treasury has reported that the oil industry on average recouped the cost of each oil well not once, but 19 times.

This represents a huge continuing subsidy, whose practical effect in terms of guaranteeing sufficient national oil reserves is extremely doubtful. In the tax reform bill which I introduced in 1969 while still a Member of the House of Representatives, I provided for the depletion allowance to be reduced to 15 percent. A similar provision is included in the present bill, with an approximate saving to the Treasury of $400 million a year.

An enormous tax loss is now built in to the system as a direct result of last year's introduction of the 20 percent acceleration of depreciation schedules for companies under the asset depreciation range.

This speed-up not only broke the logical connection between the rate of depreciation for tax purposes and the actual rate of replacement of equipment. It was at the same time economically inappropriate in the way in which it sought to encourage by subsidy further investment at a time when there was excess capacity lying idle because of lagging demand.

Returning the rules to their former status will realize a net gain to the tax system of $2.4 billion in 1972, and about $3 billion a year thereafter.

Further help can be afforded to State and local governments to the tune of $1 billion a year if they choose to take advantage of a 50-percent Federal subsidy for interest rates on their bonds in the place of their present tax-exempt bonds.

With the existing provision of tax-exemption on these bonds, the State and local authorities benefit to the tune of about $1 billion annually. However, because tax-exempt income is so attractive to the very wealthy who would normally have to pay taxes at the highest rates, the net cost to the Federal Treasury is about $2 billion, with $4 in every $5 of that extra cost being pocketed by the very wealthiest 1 percent of the population.

When all the pieces of this jigsaw of special provisions are put together, the result is an open invitation to the rich and the financially powerful to channel considerable energies toward the support of a tax avoidance industry, the sole aim of which is to produce income not by adding to the goods and services of the Nation, but simply by avoiding their fair share of the basic costs of Government.

It is an industry which is not available—let alone useful—to the average wage earner. It is an industry which should not exist at all. Any meaningful tax reform must seek to remove its reason for existence.

Mr. President, with my distinguished colleagues here today, I join in the introduction of the Tax Reform Act of 1972, in the conviction that a very definite start must be made on reforming the whole tax structure if the principles of equity and justice in Government are to be paid more than lipservice.

It is only a beginning, but I believe that it is a very important and necessary beginning which can bring significant relief and reform.

Mr. MONDALE. I thank the Senator from California.

Mr. President, I rise to support and cosponsor a vital and long overdue tax reform proposal, introduced today in the Senate by the distinguished Senator from Wisconsin (Mr. NELSON).

The Tax Reform Act of 1972 is one of the most important proposals I have seen in a long time. I am hopeful that the Senate will move swiftly to hold hearings on it, to mark up the bill, and to pass it, hopefully in this Congress.

As I go around my State of Minnesota and talk with the people, the issue which concerns them more than any other is what they rightly perceive to be the indefensible unfairness of the present Federal tax system.

The other morning, I was having breakfast in a Minneapolis hotel. A mother of five, who is working in the restaurant for very low pay, having lost her husband, told me how she had been trying to establish the fact that one of her sons who goes to a State college still continued to be one of her dependents. For more than a year she had been arguing with the local Internal Revenue Service officer about taking a deduction for that son as a dependent. It was clear to me, that she probably was correct. Here was a decent American, working hard, who desperately needed a few dollars more that would come from establishing that deduction. My heart went out to her.

The evening before, I had seen a corporate jet worth millions of dollars standing outside the Minneapolis airport. A long, black limousine pulled up to it. Three couples got out of the car, obviously having been to a party. They were returning in that multimillion dollar jet. I would guess that most of the cost of that jet—most of the cost of the evening—was being deducted as an ordinary and necessary business expense under the income tax laws of this country. Taxpayers like the hard-working mother in the restaurant probably paid a couple of thousand dollars for that ordinary and necessary business expense, as defined under the tax laws of this country.

I could not help being struck by the unfairness with which those two problems were treated: A decent working mother, trying to keep a family together, trying to help her children through college, fighting for nickels and dimes and with no tax loopholes for her, and on the other hand, thousands of dollars slipping away one evening, without any kind of review, simply because a corporation can write off a private plane and a big party as an ordinary and necessary business expense.

Mr. President, this situation has become an offense to all of us. I think it is almost immoral. We are overtaxing those who work and undertaxing those with capital.

There are many examples of outrageous indefensible tax loopholes which permit the wealth, the large corporations, with the help of their tax consultants and lawyers, to escape taxes entirely and in almost every case to pay taxes at rates which make a mockery of the Federal tax structure.

Mr. President, the American people are beginning to recognize these abuses. They do not like it. They know it is indefensible, and they want something to happen.

In the Tax Reform Act of 1972, the distinguished Senator from Wisconsin seeks to close only some of the tax loopholes. He has identified the tax loopholes that are least defensible, those which never should have been granted, and those which can be taken away now without hurting anybody. In closing some 50 tax loopholes, we will be able to raise $16 billion without increasing the taxes of the average American—indeed, while reducing taxes for most. Senator NELSON proposes to take this $16 billion and send most of it home, to permit us to reduce local real estate taxes.

He points out that the money which Wisconsin would receive as its share from this loophole closing tax bill would permit that State to reduce real estate taxes approximately 30 to 35 percent. Similar relief would come to the real estate taxpayers of Minnesota and throughout this country. Minnesota's share of this $16 billion tax reform would be $296 million—enough to lower property taxes by 40–50 percent if we choose to use the money in this way.

Thus our proposal is to tax inexcusable loopholes, taking the revenues and sending them home, to bring long overdue relief to the real estate taxpayers of our local communities. These funds then can be used for necessary local expenditures.

How much better it is to get funds this way than by the proposed value-added tax. It is significant that the amount of money that this loophole closing proposal would raise is almost the same as would be raised by the President's proposed Value-Added Tax.

That tax is nothing other than a 3-percent sales tax in disguise. It hits a family that is poor, a family that is large, a family that is old and on a fixed income, just as hard as it hits the richest family in the United States—indeed, much harder, because a higher percentage of the income of the poor will be hit by such a sales tax. More than that, the value added tax is a tax on labor. It creates an incentive to hire fewer people than are being hired now. At a time of substantial unemployment, why on earth should we be establishing a tax which encourages businesses not to hire or to lay off people who desperately need work?

So here we have a responsible, well-studied alternative to a 3-percent sales tax. It is what we might call the loophole tax plan of 1972. We will tax loopholes, and not only get the revenue we need, but also give the American public long overdue justice in the Federal tax system.

I do not think anything demoralizes Americans more than to work hard all year, at a reasonably paying job, pay their taxes, and then read, a week or two later, that one of the large oil companies paid practically nothing in taxes, that every 20th millionaire pays not a dime in taxes, and that the rich are escaping tax free or are paying taxes that make a mockery of the Federal tax laws.

Americans everywhere are disillusioned with our tax system—and they want changes. I agree with those who say our tax system is a national disgrace. I agree with those who say tax reform is needed now. That is why I have joined with other Senators in introducing this tax reform package at this time.

A study entitled "Who Paid Taxes in 1968," compiled by U.S. Census Bureau economists, shows just how bad the present tax situation is. A worker earning $9,000 a year pays about 30 percent of his total income in taxes. An executive with income of $25,000 to $50,000 pays at about the same 30 percent rate. Supporting this finding, tax experts at the Brookings Institution have shown that the special tax treatment of capital gains brings the tax rates paid by our wealthiest taxpayers down by almost 50 percent from what they would be if they paid established income tax rates.

Still a third study shows that taxes on corporations have gone down significantly since 1961 as a percentage of Government revenues, while payroll taxes on wage earners have gone up 50 percent.

Almost one man in 20 who earned a million dollars in 1970 paid no taxes.

One hundred and twelve people with incomes over $200,000 in 1970 also paid no tax at all.

The 19 largest oil companies paid taxes at a rate of only about 8 percent in 1970.

The wealthy write off summer houses and overseas trips to conventions against their taxes.

Corporate executives get millions in no-risk stock options.

If an investor holds stock until he dies instead of selling it, his heirs pay no capital gains tax on the increase in the stock's value at all.

If a wealthy man puts his money into oil wells, he can deduct 22 percent of his oil profits from his taxable income. This oil depletion loophole is not available to salaried workingmen.

Last year's tax bill allows big corporations to use an asset depreciation range (ADR) system to write off their investments in a way which will cost the rest of us $3 billion in taxes this year. This is another privilege that benefits only the wealthy.

Even our present system of tax deductions for dependents is unfair. Each $750 deduction is worth only $105 to the poor man, but $525 to the man in the highest tax bracket.

We can eliminate these and other tax

abuses by the kind of comprehensive tax reform which we are proposing today.

Our proposal will tax capital gains at death, and reduce the oil depletion allowance from 22 to 15 percent. It will end the accelerated depreciation range system and improve on the present system of deductions, giving most people a tax reduction. It will close dozens of other loopholes.

Of course, I want to consider one or two provisions in this bill more thoroughly before I adopt them as my own. The way we tax income from State and local bonds is a particular issue I will want to review. But these are details.

The reforms we propose will raise about $16 billion.

What should we do with the $16 billion we get from closing loopholes? The answer is that there will be enough money to do many things that should have been done a long time ago.

Last August, for example, I introduced legislation to give a Federal tax credit to the low-income elderly for State and local property taxes which they pay. Lifting this tax burden from our elderly citizens would cost only $400 million to $600 million—a small part of the money tax reform will make available.

With the rest of the money we could give property tax relief to more low and middle income families.

Tax reform, by easing the property tax burden will remove any excuse that there may be for proposing a regressive national sales tax called a value added tax.

Reform will allow us to greatly increase aid to the States for education and other pressing needs. This also will reduce the pressure on the States to raise sales and property taxes as they have been forced to do so often recently.

Tax reform will open many new possibilities—and it will restore a sense of social justice in America. It is what we need and what the people of America want. I intend to fight to see that they get it.

So I am proud and feel privileged to join the Senator from Wisconsin in cosponsoring the Tax Reform Act of 1972. I hope this will be a central issue in this campaign, because we no longer can have a tax structure such as this and deserve the respect of the people we represent. It is a long overdue measure. I think it represents a very intelligent and creative analysis of the present tax law. It brings this issue to the front.

Senator NELSON serves as a member of the Committee on Finance, which hopefully will be considering this proposal shortly, and I hope we will have it on the floor to vote on it. I know that it has the support of the American people.

Mr. President, I yield my remaining time to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I am pleased to join with Senator GAYLORD NELSON, Senator PHILIP HART, Senator WALTER MONDALE, and other Senators in introducing the Tax Reform Act of 1972. The bill is similar to legislation introduced in the House of Representatives earlier in this Congress by Representatives JAMES CORMAN of California, and HENRY REUSS, of Wisconsin.

We estimate that, if enacted, this bill will raise approximately $16 billion in new revenues in 1973, and increasing amounts each year thereafter. Clearly, when we talk about tax reform, we are not talking about insignificant amounts. We are talking about billions of dollars in urgently needed new funds—dollars that can be used in a variety of ways to help meet all the great challenges we face at home and overseas.

Tax reform can provide dollars for homes and health and education, dollars for crime prevention and drug control, dollars for transportation and the environment, dollars to reduce the soaring burden of property taxes, dollars to reduce the enormous Federal budget deficits we now endure, dollars for revenue sharing with State and local governments—in short, dollars to meet many of the most urgent priorities that have already been set in the past, and will be set in the future by Congress, the administration, and the American people.

It is no accident that tax reform is now erupting as one of the most important issues in the Nation this year. It is a powerful mass movement that can no longer be denied. We have a tax crisis in America today because, for years, we have allowed taxes at all levels of government—Federal, State, and local—to become vehicles of special privilege for the few, instead of the fair and reasonable income-raising measures they ought to be. Wherever we look, we find the tax base being eroded by deductions and exemptions, by windfall subsidies and questionable incentives for various industries, by benefits that have long since outlived whatever justification they might have had when they were first enacted, and even by loopholes quietly written into the law for the benefit of particular individuals or corporations—"tax fingerprints" that dot the revenue code and pay silent tribute to the political muscle of the wealthy and the powerful in the Nation.

And always, it is the ordinary citizen who bears the heaviest burden. In other days, when the role of government and public spending for social programs were much more modest than they are today, the weight of our unfair tax structure. may not have been as onerous. But today, the burden is immense, and taxpayers across the country are raising their voices in loud opposition to the rising taxes they have to pay.

And perhaps the worst offender is Congress and the way we write the Internal Revenue Code, the Federal income tax law. For generations, we have allowed the code to multiply its subsidies and deductions and exemptitons, oblivious to the mounting inequities of the system. We boast to the world that our income tax system is the fairest and most progressive revenue code ever devised in the history of taxation, yet we ignore the mushrooming proliferation of loopholes that make it so increasingly unjust. More often than not, efforts for genuine tax reform turn into a tax-cutting spree on the Senate floor, rather than the comprehensive reform they started out to be.

The responsibility for our present plight cannot be placed solely on a particular Congress, or on any single administration. In many cases, the inequities of the Internal Revenue Code have been accumulating for decades. Some are fossils from the earliest laws enacted after the 16th amendment to the Constitution conferred the power on Congress to enact an income tax.

At the same time, however, the present administration must bear a major share of the blame, because of the way in which it has opposed the meaningful efforts for reform in recent years. Twice in the past 3 years—in the Tax Reform Act of 1969 and the Revenue Act of 1971—we have seen that the only thing the administration calls reform is a plum for business and a crumb for everyone else, a program that benefits the superrich and the big campaign contributors and the big corporations, but that does nothing to ease the back-breaking burden of taxes the ordinary citizen has to bear.

And now, at the very moment when the problem ought to be clear to all, the administration simply ignores the issue and abdicates its responsibility again. It follows the path of least resistance. It caters to the special interests. It announces a search for a novel new approach like the value added tax to ease the burden.

To me, the value added tax would be the wrong tax in the wrong country at the wrong time. It would be nothing more nor less than a national sales tax, piled on top of the countless State and local sales tax that now exist—another regressive gimmick to divert the Nation from the job of real reform. And so I hope the administration will set its tax priorities right this year, and recognize that a sound tax policy for America demands prompt changes in the income tax laws, not a search for a new and different tax.

It is fair to say that, as a modern popular movement, the taxpayer's revolt began in earnest in the closing months of the Johnson administration. Its rallying cry was the disclosure by Secretary of the Treasury Joseph Barr that in 1967, the most recent year for which figures were available, 155 wealthy Americans, with incomes of $200,000 each or more, had paid no tax at all.

By 1970, thanks in part to the Tax Reform Act of 1969, the number had declined—but only slightly—to 112. We know, however, that these 112 are only the beginning of the problem. According to figures released this weekend by Congressman REUSS, there were another 282 wealthy nontaxpayers in the $100,000 to $200,000 annual income category and an additional 944 wealthy nontaxpayers in the $50,000 to $100,000 category—a grand total of 1,338 nontaxpayers whose reported incomes were $50,000 or more in 1970.

Clearly, we are only just beginning to understand the dimensions of the problem. The figures do not include those who derive all their income from tax-free interest on State and local government bonds. And for every wealthy taxpayer who escapes his taxes altogether, there are countless more who use the loop-

holes to reduce their taxes drastically, even though they were not able to play the loopholes well enough to reach the zero tax level.

In addition, the 10-percent income surtax enacted in 1968 to fight inflation had also helped to fuel a powerful grassroots movement for tax reform. Millions of ordinary taxpayers realized that the surtax itself was unfair. It applied only to those who already paid taxes on their incomes. It required no contribution at all from the wealthy few who could use the loopholes well enough to escape their taxes altogether. And it required too small a contribution from millions more who used the loopholes to escape the fair share of taxes they ought to pay.

Congress recognized the urgent need for tax reform when it passed the income surtax law in June 1968. It accepted a brief but highly important amendment requiring President Johnson to submit proposals for comprehensive tax reform to Congress before the year was over.

The Johnson administration carried out that requirement in good faith. By December, a series of comprehensive tax reform proposals was transmitted to Congress—perhaps the broadest and most far-reaching tax reforms ever proposed. In large part, those reforms were the result of the brilliant work of Stanley S. Surrey, who is one of the most renowned tax experts in the Nation and who was then completing 8 years of service as Assistant Secretary of the Treasury for Tax Policy.

But the promise of these reforms was never fulfilled. Early in the debate in Congress, the new administration made clear that its real priority was tax reduction, not tax reform. The centerpiece of the administration's tax program was a phase-out of the surtax. The message was clear, and overnight, the momentum for tax reform was channeled into legislation to cut taxes, with Congress and the administration vying to see who could cut the most.

In addition, at virtually every step of the legislative process, the tax reforms actually proposed by the Administration were weaker than those already widely supported in the House and Senate. The signal was clear—the administration was not serious about reform, and the momentum of the movement began to die. As a result, the Tax Reform Act of 1969 was only the beginning of reform, not the full reform it should have been.

Fortunately, the people of the Nation are beginning to recognize the extent of the failure in 1969. The momentum has begun to build again. And this time, let us hope that it will be too strong for either Congress or the administration to ignore.

We know the enormous inequality in the distribution of income within our country. The bottom 20 percent of families in the Nation receive only 3.4 percent of the Nation's income, while the top 20 percent receive 45.1 percent. The top 5 percent of families receive 19.1 percent of the income, and the top 1 percent receive 6.8 percent.

This is the season when millions of taxpayers across the country are calculating the amounts they owe the Federal Government in income tax for 1971. Most taxpayers have the notion, derived from the tax rate schedules at the end of their instruction forms and booklet, that the Federal income tax is set at steeply progressive rates, ranging from a minimum of 14 percent on the lowest incomes to a maximum of 70 percent on the highest incomes.

But that notion gives only a distorted view of the real effect of the tax laws. Those rates are not applied to anything that could meaningfully be called a taxpayer's real economic income. The thousands of pages of tax provisions in the Revenue Code are full of deductions, exemptions, and qualifying provisions, so that by the time the calculations are over and the rates are ready to be applied, the significance of the progressive rate schedule has entirely disappeared.

In reality, as Philip Stern, the author of "The Great Treasury Raid," has recently put it, the variety of loopholes and other special tax provisions represent a form of welfare for the taxpayer—a subsidy to relieve the burden of taxes he would otherwise have to pay. In effect, the Internal Revenue Code is the biggest welfare bill of all, dwarfing H.R. 1 by comparison. Yet the Revenue Code stands the concept of welfare on its head, because the largest amounts of welfare go entirely to the rich.

To paraphrase a famous aphorism, our tax laws in their majestic equality allow the poor as well as the rich to invest in State and local bonds, to reap long-term capital gains, to search for oil, and to hire tax lawyers and accountants to navigate their way effectively through the revenue laws.

But we know that only the rich are able to play the loopholes well. Middle and lower income Americans simply cannot afford the substantial sums that are necessary if they are to take advantage of the many different tax shelters that exist. According to some estimates, the threshold income level for effective use of tax shelters is in the neighborhood of $50,000 a year, far beyond the reach of ordinary citizens.

The excellent current computer study by Joseph A. Pechman and Benjamin A. Okner of the Brookings Institution tells the story. According to their findings, which were presented earlier this year in hearings before the Joint Economic Committee, the income tax rates paid today are extremely modest when calculated on the basis of effective tax rates—the percentage of a taxpayer's total income that actually goes for income taxes. The difference between the stated rate and the effective rate gives rise to what Philip Stern calls the amount of tax welfare—the annual subsidy a taxpayer receives because of the loopholes in the tax laws:

Overall income	Effective tax rate (percent)	Annual tax welfare payment
Under $3,000	0.5	$16
$3,000 to $5,000	1.7	148
$5,000 to $10,000	5.3	340
$10,000 to $15,000	8.7	651
$15,000 to $20,000	10.7	1,181
$20,000 to $25,000	12.1	1,931
$25,000 to $50,000	14.5	3,897
$50,000 to $100,000	23.5	11,911
$100,000 to $500,000	29.5	41,480
$500,000 to $1,000,000	30.4	202,752
Over $1,000,000	32.1	720,448

The effective tax rates are still progressive, to be sure, but instead of ranging from 14 percent to 70 percent as the schedules say, they range instead from only 1 percent to 32 percent.

Moreover, the savings are enormous for upper income taxpayers. There are six million families in the under $3,000 category, yet they receive a total of only $92 million in tax welfare. The 3,000 families with income over $1 million get $2.2 billion in tax welfare. Put another way, 70 percent of the Nation's families have incomes less than $15,000 a year, but they get only 25 percent of the tax welfare. And the 0.3 percent of the families with incomes over $100,000 get 15 percent of the tax welfare.

Nor do these tables reveal the large differences in tax rates paid by persons with different types of income at the same overall income level. For example, according to the Brookings study, the tax rate on earned income is substantially higher than the rate on income from property, such as interest, dividends, and capital gains. Thus in the $25,000 to $50,000 class, those whose income is derived from earnings pay nearly 50 percent more tax than those whose income is derived from property.

According to the calculations in the Brookings study, the application of 1972 tax rates to real economic income would raise a total of $77 billion in additional tax revenues this year. More than $67 billion of that amount, however, would be raised in the following five areas: eliminating the rate advantages of income splitting; full taxation of capital gains; eliminating tax preferences for the homeowner; taxing social security and other transfer payments; and eliminating personal exemptions and deductions. Thus, the $77 billion figure may be a yardstick in any discussion of comprehensive tax reform, but it can hardly be a current goal, since it would require immense changes in public social policy that in all probability cannot be enacted, at least in the immediate future.

The bill we are introducing today is a far more modest step. It is not the whole answer to our current tax crisis, but it is a major step in the right direction, an important followup to the foundation we laid in 1969. Obviously, we do not expect this legislation to pass Congress in 1972. We do expect, however, that it will be debated and discussed throughout the remainder of the year, and that its principal provisions will be debated in the primaries and general election of 1972. And, if we succeed, when a new administration takes office in January 1973, the cause of tax reform will be one of its first and most important goals.

Thus, the most significant decision by those who support this legislation is the commitment to basic tax reform. Of course, at this time, we seek only to blaze the trail. Inevitably, in the course of public debate, some of the reforms we have proposed will be modified or dropped, and additional reforms will be included. What we have assembled here is more an outline than a blueprint, a statement of principle that we believe in tax reform as one of America's first priorities, and that we intend to urge Congress to act as rapidly as possible.

We know that the road to reform is not an easy one. We know that we shall have the strong opposition of many special interest groups. We know that, as Professor Surrey stated in testifying on the 1969 reforms,

> There is no one so pessimistic about the future of the country as an industry or taxpayer faced with losing a tax preference.

But we also know that the people of America are aroused. We in Congress have an obligation to represent them, and this time we cannot let the momentum die.

The major provisions of the legislation we propose are as follows:

1. TAX CREDIT INSTEAD OF PERSONAL EXEMPTION

The bill would replace the existing $750 personal exemption with a tax credit of $150. Because of the progressive rate structure of the tax laws, the personal exemption is worth far more to high-income taxpayers than to those in the lower brackets. Each exemption saves $375 in taxes for a person in the 50 percent tax bracket, but only $150 for a person in the 20 percent bracket. The substitution of a tax credit for the exemption would redress the balance, and make the tax rate structure more truly progressive. It would reduce taxes for 30 million taxpayers below $10,000 and yet produce a revenue saving of nearly $2 billion in the bargain.

2. ELIMINATE THE DIVIDEND EXCLUSION

The bill would eliminate the provision of present law allowing the exclusion of $100 in dividends from income. Since the Revenue Code does not grant a similar exclusion for interest income, which is the most common form of saving for poor and middle income groups, fairness requires that the privileged position of dividends be eliminated.

3. ELIMINATE THE STATE GASOLINE TAX DEDUCTION

The bill would eliminate the deduction currently available for this tax, to the extent that it is a personal expense and not a business expense. As the Treasury Tax Reform Studies of 1968 stated, 95 percent of the funds collected through the tax are used for highway construction and maintenance. Thus, the gasoline tax is a tax in name only, not in substance. In essence, it is a "user" charge, a price paid for a consumer item. As such, it should be treated like other user charges, such as highway tolls, auto registration fees, driver's license fees, State park fees, and fees for hunting and fishing licenses—all of which are not deductible expenses under current law. At the same time, however, the bill would not affect the deduction now available for State and local property taxes, sales taxes, and income taxes, on which State and local governments rely today for the bulk of their general revenues.

4. TAX CAPITAL GAINS AT DEATH

The bill would require a capital gains tax to be paid at death on the increase in value of stock held by the taxpayer during his life. Under present law, such profits escape the capital gains tax altogether. The provision granting this exemption is responsible for freezing vast amounts of our Nation's wealth, since it encourages taxpayers to retain their assets solely to avoid the tax, long after any economic justification for the retention of the stock is gone.

5. PERCENTAGE DEPLETION FOR OIL AND OTHER MINERALS

The bill would place a ceiling of 15 percent on the depletion allowance for oil and other minerals. The oil depletion allowance is the single most notorious loophole in the revenue code. Congress made a start in 1969 by reducing the allowance from 27½ to 22 percent, and it is long past time to complete the job. Windfall profits for oil executives and corporations are a sorry chapter in American tax history, a continuing source of extreme injustice in our present laws.

6. CAPITALIZATION OF OIL EXPLORATION AND DRILLING COSTS

The bill would end another notorious oil loophole by requiring these expenses by mineral industries to be treated as capital expenditures, like similar expenses of other corporations. Their value would be recovered over the life of the property through depreciation, amortization or other business deduction procedures.

7. REPEAL ADR (ASSET DEPRECIATION RANGE)

The ADR loophole was a centerpiece of the administration's tax proposals in the Revenue Act of 1971, a bonus for big business that was widely criticized by economists and tax experts. Traditionally, the expenses of depreciation may be taken as a business deduction, but the annual deduction must bear a reasonable relation to the life of the property. Under ADR, business taxpayers were given a 20-percent acceleration in these deductions. The bill would simply restore the earlier depreciation rules.

8. FOREIGN TAXES

The bill would apply a current tax to income of foreign subsidiaries of U.S. corporations. Present law allows the tax to be deferred until the profits are returned to the United States, thereby creating an unjustifiable subsidy to U.S. multinational corporations.

9. REPEAL DISC (DOMESTIC INTERNATIONAL SALES CORPORATIONS)

As in the case of ADR, the DISC provision of the Revenue Act of 1971 was an unjustifiable tax loophole for exporters. It enables them to avoid up to 50 percent of their taxes on export profits by establishing dummy subsidiaries for international sales. The bill would tax export earnings at the rates applicable to other business income.

10. FEDERAL INTEREST SUBSIDY FOR STATE AND LOCAL BONDS

The bill would provide a 50-percent Federal interest subsidy to State and local governments issuing taxable bonds. Under present law, State and local bonds are tax free. Such bonds are a major source of revenue for such governments, but they are also a major tax shelter for the rich, who receive millions of dollars in tax-free interest each year. This provision of the bill is similar to a provision in the tax reform bill approved in 1969 by the House Ways and Means Committee and the full House, but not accepted by the Senate. It would not repeal the tax exemption for existing State and local bonds. Instead, it would simply offer an alternative method of financing to State and local governments, without the element of tax injustice.

11. HOLDING PERIOD FOR CAPITAL GAINS

The bill would require an asset to be held for at least 12 months before it qualifies for the lower and more favorable capital gains treatment. This reform was approved by the House of Representatives in 1969 but failed to pass the Senate.

12. GIFTS OF APPRECIATED PROPERTY TO CHARITY

The bill would close the current loophole that allows a full deduction for the fair market value of capital assets given to charity, even though the donor pays no capital gains tax on the appreciation in value of the asset while he held it. The Tax Reform Act of 1969 closed this loophole partially by eliminating it for gifts to private foundations. The bill would make these provisions applicable to gifts to other charities. The bill does not eliminate the deduction for gifts to charity. All it does is prevent the capital gains tax avoidance windfall that now results to donors of stock and other property.

13. DEPRECIATION ON RENTAL REAL ESTATE

The bill would eliminate one of the major tax shelters by limiting depreciation for rental real estate to the so-called straight line method. Thus, for a building with a life of 50 years, the annual deduction for depreciation is limited to 2 percent.

14. CAPITAL GAINS ON SALE OF REAL ESTATE

The bill would require gains on the sale of real estate to be taxed at rates applicable to ordinary income, to the extent that the gain resulted from prior deductions for depreciation. Present law is a standing invitation to taxpayers to turn ordinary income into capital gains. Since deductions are taken from ordinary income, gains resulting from such deductions should also be taxed as ordinary income. In general, this rule applies already to sales of personal property, and the bill would simply extend it to sales of real estate.

15. ELEMENTS OF MINIMUM TAX

The bill would add two new categories to the list of so-called tax preference items subject to the minimum tax—the credit allowed under the new 7 percent investment credit, and tax-exempt interest on State and local government bonds. The bill would also reduce the exemption currently available under the minimum tax from $30,000 to $12,000 and would repeal the provision allowing current income taxes to be deducted from preference income.

The minimum tax is essentially a "bucket under a sieve"—it is designed to apply lower tax rates to income that is derived from the various preferences and subsidies in the tax laws, so that such income does not escape tax altogether. To fulfill its purpose, the base for the minimum tax should be as broad as possible, including all the tax preferences and tax shelters. The bill would move toward this goal in four ways—by including two of the most important items of

tax preference not currently subject to the minimum tax, by reducing the excessive exemption now allowed, and by ending the current arbitrary deduction for taxes paid.

16. INCREASED RATE FOR THE MINIMUM TAX

The bill would set the rate applicable to the minimum tax at one-half the rate applicable to ordinary income. Under present law, the rate of the minimum tax is a flat 10 percent, regardless of the amount of preference income subject to the tax. For those with large amounts of preference income, the minimum tax is hardly more than a slap on the wrist, a minor toll for the promiscuous use of tax loopholes. By keying the rate to the ordinary income tax rate, the bill would turn the minimum tax into a progressive tax, and thereby insure that those with tax preference incomes will pay their fair share of taxes.

17. EQUALIZATION OF ESTATES TAXES AND GIFT TAXES

The bill would end the distortions and inequities that now exist between estate and gift taxes, by equalizing both the rates and exemptions applicable under the two taxes. Under present law, gift tax rates are substantially lower than estate tax rates, and the gift tax contains substantially more liberal exemptions.

18. GENERATION—SKIPPING TRUSTS

The bill would end the loophole by which certain wealthy citizens are able to establish this type of tax-free trust for the benefit of future generations.

19. ESTATE TAX CHARITABLE DEDUCTION

The bill would limit the estate tax deduction available for gifts of property to charity to 50 percent of the value of the estate. Under present law, there is no limit on the deduction. For example, a decedent can give his entire estate to a private family foundation created by his will, and escape the estate tax altogether. The deduction as limited under the bill would be similar to the deduction currently available for gifts to charity under the income tax laws.

20. TAX STOCK OPTIONS

The bill would tax profits resulting from the exercise of stock options at rates applicable to ordinary income. Under present law, such profits are taxed at capital gains rates, even though they represent a form of executive compensation. Thus, if an officer of a corporation receives an option to buy stock at $50 and then exercises the option when the stock has doubled in value, his gain will be taxed like the additional compensation it is.

21. RETIREMENT INCOME CREDIT FOR THE ELDERLY

The retirement income credit available to the elderly under the existing tax laws does not fulfill its purpose. It has failed to keep pace with the increasing burden of inflation in recent years or with the changes in social security payments over the years. It is also so complex in application and computation that millions of senior citizens fail to take full advantage of it, or even to take advantage of it at all. The provisions of H.R. 1, as passed by the House of Representatives and now pending before the Senate Finance Committee, contain important reforms and simplifications in the retirement income credit. Since they are already before the Senate, these measures are not included in the proposed legislation we are introducing. They are significant changes, however. They can be enacted now, and I hope that the Senate will act promptly to approve them. More broadly, above and beyond the retirement income credit, I believe that additional reforms and simplifications are needed to provide full tax justice to the elderly. The comprehensive Treasury Tax Reform Studies of 1968 outlined the direction in which we ought to move, and such changes must be a part of any comprehensive tax reform legislation enacted by Congress.

Major revenue savings from particular tax reforms

	Million
Tax credit instead of personal exemption	$1,900
Eliminate dividend exclusion	280
Eliminate State gasoline tax deduction	300
Tax capital gains at death	2,000
Percentage depletion for oil and other minerals	400
Capitalization of oil exploration and drilling costs	750
Repeal ADR	2,400
Foreign taxes	170
Repeal DISC	170
Holding period for capital gains	150
Depreciation in rental real estate	300
Capital gain on sale of real estate	100

Mr. President, as I stated earlier, I commend the Senator from Wisconsin (Mr. NELSON) for the leadership he has provided in this area, and for the role he is playing in the Finance Committee in trying to bring about so many of these reforms. All of us are looking to him for leadership in this area. I, for one, share the belief that tax reform is certainly one of the most basic and fundamental pieces of business that this country faces in 1972 and on into the future.

Also, Mr. President, I want to point out that our distinguished majority leader, the Senator from Montana (Mr. MANSFIELD) was one of the most important architects of the Tax Reform Act of 1969. It was because of his leadership that the Senate and the Senate Democratic policy committee insisted that there should be no action on the extension of the surtax without a commitment for tax reform. His action started the Senate moving in the right direction.

As a member of the policy committee at that time, I remember his strong leadership in this area. I know that he was under a great deal of criticism at that time. I think his action was completely justified. It is another example of the statesmanship and vision for which he is held in respect by every Member of the Senate.

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

Mr. KENNEDY. I yield.

Mr. MANSFIELD. Mr. President, first I thank the Senator from Massachusetts for his kind words and assure him that I appreciate them more than I can say.

I take this occasion to commend the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wisconsin (Mr. NELSON), the Senator from Michigan (Mr. HART), and the Senator from Minnesota (Mr. MONDALE), for their efforts in attempting to change the tax structure. So much is needed to be done.

I hope to offer in the near future a proposal that hopefully will contribute in making the tax code more equitable. I believe that the notion of unfairness about the tax code is justified. Some millionaires still pay no taxes because of "loopholes," the preferences and exclusions in the present tax laws.

My proposal will put a termination date on every preference and exclusion in the tax code, so that Congress must renew every preference or loophole each Congress. If a preference has current validity, then Congress will renew it.

What might have been a desirable or justifiable tax incentive years ago might have long since lost its desirability. If it has lost its validity, it should be permitted to expire. But most importantly, each Congress should be permitted to validate the currency of tax preferences and each Congress should be willing to assume the burden to prove their validity as a proper means to stimulate private economic activity or exempt certain activity from full taxation.

Mr. President, I am delighted that the Senators have taken the floor this morning to call attention to this most important issue and to indicate that the loopholes are there and that attempts will be made to close them and that a more favorable and fair and equitable tax system will be derived.

Again, I thank the distinguished senior Senator from Massachusetts (Mr. KENNEDY) and his colleagues, including the Senator from Wisconsin (Mr. NELSON), who started off the debate today and is now Presiding Officer of the Senate, for the remarks they made today and for the initiative they have undertaken to launch this effort at this time.

Mr. McGOVERN. I am pleased to join today with the Senator from Wisconsin (Mr. NELSON) and other Senators in the introduction of the Tax Reform Act of 1972.

The American people are angry with a tax system which has become increasingly unjust and which places an enormous burden on property owners.

It is no exaggeration to say that we now face a full-fledged tax revolt. Already in Wisconsin, some people are refusing to pay their property taxes.

Several months ago, I outlined a fundamental tax reform proposal that would close $28 billion in tax loopholes which now benefit the rich and the big corporations.

If that amount of money were returned to the States for property tax reductions, it would cut property taxes in half. The Nelson-McGovern bill introduced today takes a major step toward this goal.

The need for reform of our tax system is beyond debate. A generally sound tax system has been so distorted and riddled with loopholes in recent years that it is now blatantly unfair to the great majority of Americans.

At the time of the American revolution, the cry was "no taxation without representation." Today our motto must be "no taxation without justice."

While the individual income and inheritance taxes for the rich and the corporate profits tax have gradually disintegrated, the burden of the property taxpayer has grown steadily to the point where it is no longer bearable.

What we must do is simple, make those who can pay their share of taxes do so—without the benefit of all the loopholes tht only the right and powerful can use. At the same time, those who bear too heavy a burden—in the form of property taxes—should get some relief.

The Nelson-McGovern bill represents a comprehensive program to bring about tax reform, collect $16 billion in new revenues, and then to distribute these funds to State and local governments so that property taxes can be lowered.

This bill is patterned on the McGovern tax reform proposals, which call for:

The enactment of a realistic minimum income tax on those with revenues of $50,000 a year or more, which would bring in almost $6 billion;

The elimination of all corporate tax loopholes initiated since 1960, which would raise $17 billion.

A tax on recipients for all gifts and inheritances received with an overall lifetime ceiling, which would add $5 billion or more in new revenues.

The principal features of the Tax Reform Act of 1972 are:

Repeal of the accelerated depreciation range system, which would bring in $3 billion;

Taxation of capital gains at death, saving $2 billion;

Reduction of the oil depletion allowance from 22 percent of tax-free income to 15 percent, worth $400 million (the McGovern program calls for a complete phaseout of this allowance);

Increasing the rates and reducing the exemption in the minimum tax adopted in the Tax Reform Act of 1969, which would raise $3 billion.

Just as important as the tax reform itself is the plan for using the revenues for reducing property taxes. In Wisconsin, property taxes could be reduced by 30 percent under the terms of the Tax Reform Act, or as much as 50 percent under the McGovern proposals.

I have proposed that the Federal Government assume one-third of the cost of education. The Nelson-McGovern bill shows exactly how this would be done in practice. While the President and the Congress would have to decide on the use of revenues resulting from tax reform, I believe that we must place a high priority on their allocation for the purpose of reducing the property tax. That is the only kind of revenue sharing that makes sense.

Mr. HART. Mr. President, I am pleased to join the Senator from Wisconsin (Mr. NELSON), the Senator from Minnesota (Mr. MONDALE), and the Senator from Massachusetts (Mr. KENNEDY) this morning, in presenting a proposed Tax Reform Act of 1972 for ourselves and eight other Senators.

All of us in Washington are well aware of the rising resentment about unfair taxation at every level of government—Federal, State, and local. We took a small step toward tax fairness in 1969. Yet, our Federal tax code is still too riddled with loopholes and special privileges for the ordinary taxpayer to be convinced that he is getting a fair share.

In 1969, we enacted a minimum tax on income which otherwise was sheltered from taxation. But that provision was aptly named, for it was about as minimum as could be. Among other steps, our bill would make that commitment meaningful by imposing a substantial, progressive rate of minimum taxation. The bill will also close other loopholes and eliminate some of the most unjustified preferential treatment in the code.

Many pleas for real reform have focused on the efforts of so-called "special interests" to maintain their advantages under the present tax law. But the blame for failure to enact reform cannot be laid at any other doorstep than our own. A man of some familiarity with finance, Mr. J. Pierpont Morgan, put it well, 15 years ago, when he stated:

> Anybody has a right to evade taxes if he can get away with it. No citizen has a moral obligation to assist in maintaining the government. If Congress insists on making stupid mistakes and passing foolish laws, millionaires should not be condemned if they take advantage of them.

On an earlier occasion, Mr. Morgan observed:

> Congress should know how to levy taxes, and if it doesn't know how to collect them, a man is a fool to pay the taxes.

That states our responsibility well, Mr. President. The ball is in our court to proceed with meaningful tax reform, and to do it now.

We know that we need more money to combat pollution, to improve education, to feed the hungry, to care for the sick, and to build adequate housing.

Tax reform, not a value-added tax, is the fair way to raise those needed funds.

I salute the Senator from Wisconsin for his initiative and leadership in this measure. Neither he, nor those of us who worked with him on it, are committed to every provision of this rather lengthy and complex bill. But we think it is a fair and responsible effort at comprehensive reform. It deserves a constructive and specific response from the administration before they ask the American people to accept a regressive sales tax, under any label.

Mr. President, I hope that Congress will act promptly on this measure, which I consider one of the most urgent areas for our attention.

Mr. HUGHES. Mr. President, as a cosponsor of the tax reform bill introduced in the Senate today, I want to commend the Senator from Wisconsin for his analysis of the bill and his clear and compelling explanation of why it is necessary.

Tax reform is necessary if we are to reverse the trend toward more and more regressive taxation.

Tax reform is necessary if we are going to be able to make any real progress in solving our problems of health, education, poverty, crime, pollution, mass transportation, housing, and decay of our cities.

Tax reform is a necessary part of any effort to provide tax relief to our States and localities.

And most important, tax reform is necessary if we are to restore the faith of the American people in the justness and fairness of their Government.

Every item the Federal Government purchases—from paper clip to super carrier, and every service the Federal Government provides—from information on soils and fertilizers to national security—is dependent upon the taxes levied on our citizens. Our tax system must be fair; it must not favor one group of citizens over another. We all know that this is not the case under our present tax laws, and public awareness of the many inequities is growing.

As the Senator from Wisconsin has indicated, this proposed tax reform bill is not a radical measure; it is a reasonable, important first step toward tax justice.

By Mr. MOSS:

S. 3380. A bill to permit immediate retirement of certain Federal employees. Referred to the Committee on Post Office and Civil Service.

EARLY RETIREMENT BONUSES: AN ALTERNATIVE TO MORE "RIF'S"

Mr. MOSS. Mr. President, today I introduce legislation to provide voluntary retirement incentives to qualified Federal employees whose agencies are undergoing major reductions-in-force.

The purpose of this bill is to permit senior Government workers—"those with 25 years of service or after becoming 50 years of age and completing 20 years of service"—to retire voluntarily, thus reducing the number of younger employees who have to be "riffed".

To encourage greater participation in such a program, the legislation also provides for the institution of a temporary early retirement bonus system for those agencies affected by these manpower reductions.

The implementation of such a bonus system would present few difficulties administratively. Under present law an early retiree must take a 2-percent reduction in his annuity for each year that he retires prior to age 55. The legislation which I propose today would reduce this penalty to 1 percent a year—with the maximum limited to 5 percent.

The advantages of such a program are obvious and greatly exceed the costs, which the Civil Service Commission estimates at less than $1,200 per retiree. In addition to facilitating the senior Government employee's readjustment to a second career, the measure would permit younger men to move ahead in the Federal service with a far greater degree of job security.

I believe this legislation serves the best interests of current national policy. Last August the President announced that all Federal agencies must reduce their manpower levels 5 percent by the end of the current fiscal year. The President's directive is already having a serious economic impact in those parts of the country affected by these reductions-in-force. Last Friday, Hill Air Force Base, the largest single employer in Utah, was one of many Federal installations which was instructed to reduce manpower levels substantially between now and May 1. This legislation to encourage voluntary early

retirement would alleviate the economic dislocations and personal hardship which would otherwise attend these substantial manpower reductions.

By Mr. MONTOYA (for himself, Mr. RANDOLPH, and Mr. COOPER):

S. 3381. A bill to establish a national development program through public works investment. Referred to the Committee on Public Works.

PUBLIC WORKS DEVELOPMENT ACT OF 1972

Mr. MONTOYA. Mr. President, I introduce for myself, Senator RANDOLPH, and Senator COOPER for appropriate reference the Public Works Development Act of 1972.

I view the introduction of this bill and the forthcoming hearings as the launching of a new and creative approach to economic development. This bill contains new approaches to making government at all levels more effective in working for the best interests of all our people. It is intended to draw on the strength of the American system and to utilize a substantial input from the people this program is designed to benefit.

In this legislation, we present to the Senate concepts generated during many days and weeks of general economic development hearings last year. We have drawn on consultations with and testimony from people with wide experience in the field of economic development, as well as public officials, including the Governors of a dozen States.

If there was one thing we learned last year, it was that the people today expect their Government to produce results as never before. They no longer accept without question the idea that hardship and deprivation are a necesary part of life in the richest country on earth. They do not accept economic theories as excuses for unemployment or underemployment. The American people today see the great accomplishments of their Government in other areas, and they demand that we do something to stabilize the boom and bust approach that has characterized so much of our history.

The citizens of this country wonder why their Government can marshall the resources to put men on the Moon, but cannot arrange it so that men on Earth have regular jobs. These are valid questions, to which we must not only listen, but which we must answer.

National, State and local governments, I am convinced, have the capability to develop the basic facilities and services that communities need on which to build stable economies. This cannot be accomplished, however, without a coordinated effort—and this bill is intended to provide the framework and the direction for such an effort.

In 1965, the Congress initiated a bold new experiment in government with passage of the Appalachian Regional Development Act and title V of the Public Works and Economic Development Act. The Appalachian Act was the congressional response to the particularly severe needs of a large and important segment of our Nation. Dependent upon a largely one-industry economy and hampered by a shortage of adequate transportation in a rugged terrain, Appalachia over the years, had consistently lagged behind the rest of the Nation. The result was a retarded social and economic development. The gap between Appalachia and the rest of the country was widening.

The Appalachian Act sought to overcome these deficiencies by marshaling the resources of the local, State, and Federal Governments and directing them in a manner to provide the greatest results.

The most innovative features of the Appalachian Commission and of the regional commissions created under title V is the nature of their composition as partnerships of the States and Federal Government. Equally important is the reliance on comprehensive planning on a State and regional basis intended to encourage orderly development based on soundly planned programs of public works investments.

In the 7 years since these programs were enacted, significant changes have taken place in the Appalachian area. While our original goals have not been fully achieved, there has been progress to the extent that we are convinced of the validity of this approach.

The Congress concurred in this judgment last year by extending the Appalachian title V programs. As the Subcommittee on Economic Development considered extension of the existing programs last year, it was impossible not to evaluate them in the context of what had taken place in other parts of the country.

We were aware of situations in all parts of the United States that required attention. In a series of hearings that took the subcommittee from North Carolina to the northern reaches of Alaska, we examined in detail the development problem of all sizes and types of communities. We became convinced that a nationwide program to establish a policy of balanced and rational development was essential.

Rapid urbanization and technological changes, particularly since World War II, have contributed to the disruption of traditional patterns of growth and development. Consequently, the United States today is influenced by forces with which it has had little historic experience and which renders many existing economic and governmental institutions obsolete.

No single level of Government is adequately equipped to implement effective programs for achieving balanced physical growth and improvement of the environment.

The Federal Government is often fragmented and internally competitive. States and local governments are often unable to command the legal tools and financial resources to meet anticipated problems.

A comprehensive policy for development is urgently required to facilitate the provision of public services and the balance of physical and human resources through the proper management and control of physical development.

The critical questions raised by persistent unemployment, violent economic fluctuations, and uneven stages of development, demand new answers.

It is, therefore, the purpose of the bill I introduced today to provide for the formulation and implementation of a national policy for development in which Federal, State, and local governments function as partners. It is intended to generate orderly, economical, and socially desirable development through a sound public works investment policy and to provide a firm economic, social, and cultural base for sustained growth through the improvement of essential public services.

The administrative structure provided is intended to place initiative at the local level and to help State and local governments adapt the resources of diverse national programs to local requirements. It is a structure designed to solve problems as they occur and are defined. Such an approach recognizes the contemporary complexity of an American society in which neither problems nor solutions can be categorized without consideration of their wider implications. It is anticipated that the programs of coordinated public decisionmaking provided in this bill will result in responsive patterns of development and greater opportunity for all Americans to share in the abundance their country offers.

The conditions which precipitated the introduction of this bill are widely recognized and their impact on the social, political and economic life of our country is felt throughout our society.

In his state of the Union message on January 20, President Nixon took note of the frustrations faced by State and local governments. He said:

> The financial crisis of State and local governments is deepening. The pattern of breakdown in State and municipal services grows more threatening. Inequitable tax pressures are mounting. The demand for more flexible and more responsive government—at levels closer to the problems and closer to the people—is building.

The President was speaking in terms of his proposed revenue-sharing program as a response to these problems. The legislation I introduce today is a necessary addition to this response. It is an ingredient in the establishment of a new Federalism: a structure that maintains active Federal participation in the development process, a structure that guarantees adherence to national priorities, a structure that assures the appropriate utilization of redistributed resources.

The administrative structure provided in this bill closely corresponds to that which has been successful in the Appalachian program. A series of development commissions would be established to include every State and territory. These commissions, as in Appalachia, also would be a partnership of Federal, State and local governments. To give the States a strong voice from the beginning, the Governors would determine the composition of the commissions with the concurrence of the President.

The regional commissions established under title V of the Public Works and Economic Development Act would continue to function until the participating States were included in the new commissions.

Each commission would be composed of a Federal cochairman appointed by the President, and a member from each participating State, either the Governor or his designated representative. The function of the commissions would be to promote proper social, economic, and environmental development by sound and coordinated public works investment pro-

grams. All of these public works programs would be developed through a planning process that includes participation by all levels of Government.

Reasoned and coordinated public decisionmaking is critical to a successful national development program. The public works investments authorized by this bill, therefore, would be made through a coordinated planning process in conformity to the priorities and goals established by the States and local governments.

I do not envision a static process in which a single plan is developed and then stamped as the permanent guide for the future. Instead, the planning procedure must be dynamic, a continuous process, emanating from the grassroots and taking into account all local needs and features of community life—with a flexibility that allows periodic revision to meet changing needs and adjusted priorities.

The planning process would be aimed at utilizing public works investments to stimulate and direct development; to improve economic opportunities and choices of individuals; to support sound landuse; and enhance and protect the environment.

At every step of the way there would be full participation by the public and private sectors in the establishment of goals, objectives, and priorities.

The regional commissions would make grants to the States and local development districts to assist with administrative expenses, planning, research, and technical assistance. These grants would be 100 percent for the first year, and up to 75 percent subsequently.

This legislation also permits the President, at his discretion, to establish an Office of Development. The Director of this Office, together with the Federal cochairman of the various regional commissions, would assist and advise the President on programs and policies relating to development.

Essential to the execution of development programs, is the authority granted to regional commissions to make direct and supplemental development grants, demonstration grants, and operating grants for projects resulting from their other assistance.

No grant would be for more than 50 percent of the cost of the project. Supplemental grants, however, could, combined with those from other Federal programs, raise the Federal portion to a maximum of 80 percent. Operational grants would be authorized at 100 percent for the first 2 years, and 75 percent for the next 3 years. Demonstration grants would be at a level of 100 percent.

The regional commissions established under this bill would assume the grant programs now being carried out by the Economic Development Administration.

In 1962 the Congress passed the Public Works Acceleration Act to provide an immediate response to abnormally high increases in unemployment through the immediate institution of public works construction programs. Last year the Committee on Public Works developed, and the Senate passed, the Economic Disaster Relief Act to alleviate the hardships caused by sudden or threatened rises in unemployment of significant propositions.

These situations are provided for in the bill I introduce today by requiring that at least 10 percent of the grant funds be allocated to short term employment-producing projects in special impact areas. These areas are those in which there are large numbers of low-income persons, rural areas with substantial out-migration, areas with high unemployment or areas with actual or threatened unemployment increases.

Applications for all grants would be made through the States to the regional commissions. The States would also have to consider the environmental consequences of projects and issue guidelines to protect the environment.

A program such as this bill envisions is an ambitious and far-reaching endeavor. To be effective in meeting the needs of our communities and people, it must have adequate financial support. For the grant programs which are the keystone of this proposal, the bill provides authorizations of $2 billion for fiscal year 1974, $2.5 billion for fiscal year 1975, and $3 billion for fiscal year 1976.

I referred earlier to the changes that have taken place in our country during the past quarter-century. A vital characteristic of the American system of government is its ability to adapt to changing conditions. Approximately 40 years ago, under the impetus of a severe economic depression, we entered a period of increased authority for the Federal Government. This was a proper and necessary development, for the Federal Government was the only entity nationwide in scope and possessing the financial and political resources needed to stimulate recovery. Several years later, as recovery from the depression was taking effect, we found ourselves involved in World War II. Again, and for obvious reasons, it was necessary for the Federal Government to retain strong authority to successfully prosecute the war.

Now we are witnessing a swing of the pendulum in another direction. States and local governments are demanding a return of much of the authority that they once enjoyed. Even in Washington there is a growing recognition that all decisions cannot be made here, and that we must relinquish some of the power we have exercised for the past four decades. The President's revenue-sharing proposals are but one manifestation of the current mood. While revenue sharing recognizes the problem, this bill is an additional response and one that I believe can find acceptance by the administration and the State and local governments.

In an address to the National Governors' Conference in Washington, D.C., on February 23, Vice President AGNEW noted to a responsive audience the frustrations faced by Governors who must deal on a day-to-day basis with the Federal bureaucracy. He recognized the need to give State and local authorities an increased voice in the decisions that affect their constituencies. Mr. AGNEW also stressed the necessity of bringing order to the administration of some 530 Federal grant-in-aid programs.

Mr. President, we can no longer continue to operate within the framework of the past. The legislation I propose today would not impose a new level of government—instead it would bring together existing governments at all levels in a new form where they could determine and carry out their own priorities for the general welfare of their citizens.

I do not accept the notion that the persistent unemployment we have witnessed in recent years must be a permanent way of life in a modern economy. Nor do I believe that some areas must perpetually lag behind others in the quality of life and the opportunities they offer their citizens.

The problems of the last third of the 20th century are great, but the promises are equally great, and I believe that all the people of our country should have the opportunity to share its abundance.

The legislation I introduce today is intended to provide the mechanism for effectively delivering this abundance to all Americans. The Subcommittee on Economic Development will conduct hearings on this bill on April 18 through 20 and April 25 through 27, 1972.

Mr. President, I have discussed the key features of the bill I introduce today, and I ask unanimous consent that a detailed outline of this legislation be printed in the RECORD.

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

SUMMARY OF THE BILL

The national public works development program contained in the bill provides that—

(1) A Development-Commission structure would be established to include every state and territory of the United States, with a separate Commission for Indiana.

(2) The Development-Commission structure would be a partnership of Federal, State, and local governments.

(3) The purpose of the Commission would be to promote proper social, economic, and environmental development through sound and coordinated public-works investment programs.

(4) The public works programs would be established through a planning process that would include input from all levels of government.

(5) Governors, with the concurrence of the President, would determine the composition of the development commissions.

(6) The commissions would consist of whole states or parts thereof.

(7) Each commission would be composed of a "Federal Cochairman" appointed by the President, with the advice and consent of the Senate, and a State member—to be the Governor or his designated representative. The Federal Cochairman would have an alternate, and each State member would have at least one alternate.

(8) The State members would elect a State Cochairman and *could* establish an Office of States Regional Representative.

(9) Commission decisions would require the affirmative vote of the Federal Cochairman and of a majority of the State members.

(10) The Federal Cochairman would consult with Federal departments and agencies having interest in the subject matter.

(11) The Federal Cochairman would be compensated by the Federal Government level IV. The State member would be compensated by his states.

(12) Commissions would:

(a) foster comprehensive programs implementing a policy for public works development which through the management and control of physical development will provide necessary public services, stimulate and channel physical and economic growth, optimize economic opportunities and choices for individuals, support sound land use, and protect and enhance the environment;

(b) develop, on a continuing basis, comprehensive plans and establish policies for the development of projects, giving due consideration of Federal, State, and local planning in the region;

(c) Conduct and sponsor studies and demonstration projects;

(d) review programs of the agencies;

(e) recommend interstate compacts and other forms of interstate cooperation;

(f) encourage the formation of development districts; and

(g) encourage private investment.

(13) Commission expenses would be paid by the Federal Government during the first year, with the states paying 50 per cent thereafter. The Federal Cochairman would be paid by the Federal Government. States would determine their individual shares.

(14) The Commissions would have the necessary administrative powers to carry out their functions;

(15) In order to obtain information, the Commissions could hold hearings, obtain data from Federal, State and local agencies, and keep records of its doings and transactions.

(16) Development Districts would be multijurisdictional entities certified to a Development Commission by the Governor of the appropriate State.

(17) Development Districts would have to be one of the following:

(a) a nonprofit incorporated body organized or chartered under the law of the State in which it is located;

(b) a nonprofit agency or instrumentality of a State or local government;

(c) a nonprofit agency or instrumentality created through an interstate compact; or

(d) a nonprofit association or combination of such bodies, agencies, and instrumentalities.

(18) A majority of the District's governing board would be elected local officials and the remainder would represent areawide interests, including low-income and minority groups.

(19) The Districts would have to have the resources to conduct comprehensive planning and development programs.

(20) Pursuant to Commission policies, each State would carry out a continuous, coordinated, and comprehensive process for planning public works development investments; establish overall state goals, objectives, and priorities to guide District planning; and develop at least annually an inventory of specific project recommendations to be presented to the Commission. Such a planning process would be addressed to utilizing public works to stimulate, control, and channel development, to optimize economic opportunities and choices for individuals; and to support sound land use and enhance and protect the environment.

(21) Pursuant to State policies, each district would also carry out a planning process, establish goals and priorities, and submit to the State, at least annually, specific project recommendations.

(22) All planning processes would be interrelated and would consider private investments. In carrying out their planning process, States would have to consult with Development Districts and take full account of District goals, objectives, priorities, and recommendations.

(23) Commissions and States would publish guidelines to assure full public participation in the establishment of goals, objectives, and priorities.

(24) Federal departments and agencies would take into account the goals and objectives established by the Commissions, States and Districts.

(25) Commissions would make grants to Districts for administrative expenses and to States and Districts for planning activities. They would also make grants for research and technical assistance. Grants would be 100 percent for the first year and no more than 75 percent thereafter.

(26) The President would be authorized funds for Commission and District administrative expenses; State and District planning activities; and Commission research and technical assistance activities in an amount not to exceed $125 million for fiscal year 1974, $150 million for fiscal year 1975, and $175 million for fiscal year 1976.

(27) The President could also make grants for State and Commission start-up expenses;

(28) The President *may* establish in the Executive Office of the President an "Office of Development," composed of a Director and other necessary personnel. The Director, together with the Federal Cochairmen, would assist and advise the President on development programs and policies. The Director would assist the Federal Cochairmen in determining the cause of underdevelopment and methods of stimulating development; help initiate Development Commissions; help coordinate Commission and Federal-agency programs; and investigate the effects of Federal policies upon regional and area development.

(29) Authorizations for start-ups and the Office of Development would be $10 million for a four-year period.

(30) Each Commission would make direct development grants, supplementary development grants, grants for the operation of projects resulting from the above grants, and demonstration grants.

(31) No grant would exceed 50 per cent of the cost of a project, except that supplementary grants could raise the Federal portion to 80 per cent; operational grants could be made for 100 per cent for the first two years and 75 per cent for the next three years; and demonstration grants could be made for 100 per cent.

(32) No less than 10 per cent or more than 20 per cent of grant funds would go to special impact areas having large numbers of low-income persons; rural areas having substantial outmigration; areas with substantial unemployment; or areas with actual or threatened abrupt rise in unemployment.

(33) Impact-area grants could be 100 per cent if the area's effective taxing and borrowing power has been exhausted.

(34) Grants for projects for Indians or grants made by the Indian Commission would be 100 per cent.

(35) Projects would be carried out through departments, or agencies of the Federal, State, or local governments.

(36) Grants would be made to States or political subdivisions thereof, nonprofit organizations, or development districts. Grants by the Indian Commission could also be made to Indian tribes or organizations, organization of natives, and intertribal councils.

(37) Application for grants would be made through the State, and the State would evaluate the application for approval. Commissions would also have to approve all projects.

(38) Commissions would have to consider the environmental consequences of proposed projects and issue guidelines aimed at protecting the environment.

(39) In allocating funds, Commissions would consider the potential for increasing income levels; the potential for reducing the rate of unemployment; the relative need for public works; and the relative value of projects vis-a-vis projects in competition for the same funds.

(40 Grants could not be used to private business from other areas of the country.

(41) Authorizations would be $2 billion for fiscal 1974; $2.5 billion for fiscal 1975; and $3 billion for fiscal 1976.

(42) No more than 10 percent of appropriated funds could be used for operational grants.

(43) Funds would be apportioned to the Commissions as follows:

(a) 10 per cent according to land area;

(b) 10 per cent according to revenue effort;

(c) 40 per cent according to population; and

(d) 40 per cent according to per capita income, weighted inversely.

(44) Funds appropriated to a Commission by reason of inclusion of a definable Indian tribal population or land area within the region would be apportioned to the Indian Development Commission. In no event would funds apportioned to the Indian Commission be less than one per cent of all funds appropriated.

(45) Federal Cochairmen and Development Commission would have to insure participation by local contractors and labor.

(46) Commissions would maintain a permanent list of applications approved for financial assistance to be available for public inspection.

(47) Current Title V Commissions would continue to operate until the participating States were included in Commissions established by this Act.

PUBLIC WORKS DEVELOPMENT VITAL TO NATIONAL STABILITY

Mr. RANDOLPH. Mr. President, I join the Senator from New Mexico (Mr. MONTOYA) in sponsorship of the Public Works Development Act of 1972. I am fully familiar with the considerable amount of background work that has preceded its introduction by the chairman of our Subcommittee on Economic Development. For some time he has been disturbed by the uneven development in various parts of the United States, and this bill represents his thinking on how to establish stable communities with the opportunities for employment and a good life for all citizens.

The inspiration for the approach taken in this bill is the Appalachian Regional Development Act, which was developed in the Committee on Public Works in 1965. The Public Works Development Act builds on one of the most successful features of the Appalachian program, the strengthening of State and local governments and making them an integral part of the decisionmaking process on public works investments.

This legislation considers State and local governments as equal partners with the Federal Government in the implementation of the national program it authorizes.

The bill introduced today will not in any way disrupt the operation of the Appalachian program. We have made great strides in alleviating the problems peculiar to Appalachia, and we are well on the way to removing even more of the barriers to a full and prosperous life that exist for the people of that important part of our country.

Mr. President, I view the legislation introduced by the Senator from New Mexico as the rightful heir to our earlier efforts in this field—the Appalachian Act and the Public Works and Economic Development Act. They charted new courses in governmental relations and in the refinement of the American system. What we propose today is built on what we have learned in 7 years of experience and what we perceive to be an

urgent need in the desire to provide equal opportunity for all Americans.

By Mr. JAVITS (for himself and Mr. WILLIAMS, Mr. BEALL, Mr. CRANSTON, Mr. PEARSON, Mr. PELL, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. STEVENS, Mr. STEVENSON, and Mr. TUNNEY):

S. 3382. A bill to amend the Elementary and Secondary Education Act of 1965. Referred to the Committee on Labor and Public Welfare.

GIFTED AND TALENTED CHILDREN'S EDUCATION ASSISTANCE ACT

Mr. JAVITS. Mr. President, I introduce for myself and for Mr. WILLIAMS, Mr. BEALL, Mr. CRANSTON, Mr. RIBICOFF, Mr. PEARSON, Mr. PELL, Mr. SCHWEIKER, Mr. STEVENS, Mr. STEVENSON, and Mr. TUNNEY the Gifted and Talented Children's Education Assistance Act of 1972. This measure seeks to meet the needs set out in the report submitted to the Congress early this year on "Education of the Gifted and Talented" by the Commissioner of Education. The bill would—

First. Establish a National Clearinghouse on Gifted and Talented Children to obtain and disseminate information on identification, counseling, and education of gifted and talented children, authorizing $1 million for fiscal years 1973 and 1974 for this purpose.

Second. Authorize grants to the States for education programs for gifted and talented children through high school—$50 million is authorized for fiscal year 1973 and $60 million for fiscal year 1974 for this purpose.

Third. Provide for training of personnel for the education of gifted and talented children, authorizing $15 million for fiscal year 1973 and $20 million for fiscal year 1974.

Fourth. Establish research and demonstration projects for the education of gifted and talented children, authorizing $14 million for fiscal year 1973 and $16 million for fiscal year 1974.

Should the National Institute of Education—provided for in both the Senate and House versions of S. 659, the higher education bill now in conference—be enacted into law, then the provisions for research and demonstration projects and for the clearinghouse would be either dropped or revised, as necessary.

Present law now defines gifted and talented children as those "who have outstanding intellectual ability or creative talent, the development of which requires special activities or services not ordinarily provided by local educational agencies." The Office of Education estimates, conservatively, that there are between 1.5 million and 2.5 million of these gifted and talented children in our schools today.

Developing our gifted and talented young people to their fullest is a task of concern to the whole Nation—they comprise a most valuable national resource. Educators have noted that the great reservoir of undiscovered and undeveloped intellectual talent is not confined to upper or middle-class neighborhoods but is as great a potential in low-income neighborhoods and among the poor.

In addition, as the Commissioner's report points out, gifted and talented children are, in fact, "deprived and can suffer psychological damage and permanent impairment of their abilities to function well which is equal to or greater than the similar deprivation suffered by any other population with special needs served by the Office of Education."

The Commissioner's report also underlined the need for this legislation when it pointed out that, although 21 States have laws to provide resources for services to gifted and talented children, such legislation in many cases merely represents intent and little or nothing is being done to implement it. The report went on to note that the "Federal role in delivery of services to the gifted and talented is presently all but nonexistent."

In a recent article, Commissioner of Education Marland declared:

> This particular group of versatile and complex young people suffers the neglect that is typical of most groups with special educational needs.

He added that—

> Appropriate attention to the unusually gifted is needed to bring a better level of equity to our educational program.

He further indicated that—

> The relatively small number of gifted students who have had the advantage of special programs have shown remarkable improvements in self-understanding and in ability to relate to others, as well as in academic and creative performance.

I wish to repeat the Commissioner's findings and his conclusion:

> The importance to the public of properly educating the gifted has never been greater than at present.

This bill seeks to meet that challenge, for in addition to society's obligation to provide every individual with access to self-fulfillment, a society has a very real obligation to itself to assure its own healthy survival and the continuing development of its greatest resource—the capabilities of its people—by encouraging the talented and gifted as well as seeking to lift up the depressed and oppressed.

In 1958, with the launching of the sputnik by the U.S.S.R., the people of this land were shocked and dismayed at the failure of our education system to develop its scientifically talented students and better direct their energies for the benefit of mankind. In response, Congress enacted the National Defense Education Act. A similar response was made at the State and local levels.

But the effort to develop to the fullest potential the abilities of our youth has lagged. It is clear that now, more than ever before, systematic efforts must be made at National, State, and local levels to identify, nurture, and cultivate the demonstrated and potential talents that exist in every walk of American life.

To provide what our Nation's gifted and talented children and youth need, when they need it, and in the manner they need it, is an investment in human resources that will benefit not only the gifted but our entire society for decades to come.

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

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

S. 3382

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Elementary and Secondary Education Act of 1965 is amended by redesignating title VIII and references thereto as title IX, and by renumbering sections 801, 803, 805, 807, 808, and 809, and references thereto, as sections 901 through 906, respectively, and by inserting after title VII thereof the following new title:

"TITLE VIII—GIFTED AND TALENTED EDUCATION ASSISTANCE

"PART A—GENERAL PROVISIONS

"SHORT TITLE

"SEC. 801. This title may be cited as the "Gifted and Talented Children's Educational Assistance Act".

"PURPOSE

"SEC. 802. It is the purpose of this Act to assist State and local educational agencies to develop special educational programs for gifted and talented children and youth.

"PART B—ADMINISTRATION AND INFORMATION

"ADMINISTRATION

"SEC. 811. The Commissioner shall designate an administrative unit within the Office of Education to administer the programs and projects authorized by this Act and to coordinate all Federal programs for gifted and talented children and youth.

"NATIONAL CLEARINGHOUSE ON GIFTED AND TALENTED CHILDREN AND YOUTH

"SEC. 812. (a) The Commission shall establish independently or locate in an existing clearinghouse the National Clearinghouse on Gifted and Talented Children and Youth (hereinafter referred to as the 'clearinghouse'). The clearinghouse shall obtain and disseminate to the public information pertaining to the education of gifted and talented children and youth. The Commissioner is authorized to contract with public or private agencies or organizations to establish and operate the clearinghouse.

"(b) There is authorized to be appropriated for the establishment and operation of the clearinghouse $1,000,000 for the fiscal year ending June 30, 1973, and $1,000,000 for the fiscal year ending June 30, 1974.

"PART C—ASSISTANCE TO STATES FOR EDUCATION OF GIFTED AND TALENTED CHILDREN AND YOUTH

"GRANTS AUTHORIZED

"SEC. 821. (a) The Commissioner is authorized to make grants pursuant to the provisions of this part for the purpose of assisting the States in the initiation, expansion, and improvement of programs and projects (including the acquisition of equipment) for the education of gifted and talented children and youth at the preschool, elementary, and secondary school levels.

"(b) For the purpose of making grants under this part there is authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973, and $60,000,000 for the fiscal year ending June 30, 1974.

"ALLOTMENT

"SEC. 822. (a)(1) There is hereby authorized to be appropriated for each fiscal year for the purposes of this paragraph an amount equal to not more than 3 per centum of the amount appropriated for such year for payments to States under section 821. The Commissioner shall allot the amount appropriated pursuant to this paragraph among Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs.

"(2) From 82 per centum of the amount appropriated pursuant to section 821 for any fiscal year the Commissioner shall allot to each State an amount which bears the same ratio to such amount as the number of

children aged three to eighteen, inclusive, in the State bears to the number of such children in all the States, except that no State shall be allotted less than $50,000. For purposes of this subsection, the term 'State' shall not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

"(b) The number of children aged three to eighteen, inclusive, in any State and in all the States shall be determined, for purposes of this section, by the Commissioner on the basis of the most recent satisfactory data available to him.

"(c) The amount of any State's allotment under subsection (a) for any fiscal year which the Commissioner determines will not be required for that year shall be available for reallotment, from time to time and on such dates during such year as the Commissioner may fix to other States in proportion to the original allotments to such States under subsection (a) for that year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for that year.

"STATE PLAN

"SEC. 823. (a) Any State which desires to receive grants under this part shall submit to the Commissioner through its State educational agency a State plan in such detail as the Commissioner deems necessary. Each such plan shall—

"(1) provide satisfactory assurance that funds paid to the State under this part will be expended, either directly or through local educational agencies, solely to initiate, expand, or improve programs and projects, including preschool programs and projects, (A) which are designed to meet the special educational and related needs of gifted and talented children and youth throughout the State, (B) which are of sufficient size, scope, and quality (taking into consideration the special educational needs of such children) as to give reasonable promise of substantial progress toward meeting those needs, and (C) which may include the acquisition of equipment. Nothing in this part shall be deemed to preclude two or more local educational agencies from entering into agreements, at their option, for carrying out jointly operated programs and projects under this part;

"(2) provide for proper and efficient State administration (including State leadership activities and consultive services), and for planning on the State and local level, and provide evidence that a person knowledgeable about the education needs of gifted and talented children and youth is employed in a full-time capacity to administer and coordinate the programs and activities authorized by this part;

"(3) provide satisfactory assurance that the control of funds provided under this part, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this part, and that a public agency will administer such funds and property;

"(4) set forth policies and procedures which provide satisfactory assurance that Federal funds made available under this part will be so used as to supplement and, to the extent practical, increase the level of State, local, and private funds expended for the education of gifted and talented children and youth, and in no case supplant such State, local, and private funds;

"(5) provide that effective procedures, including provision for appropriate objective measurements of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs in meeting the special educational needs of, and providing services for, gifted and talented children;

"(6) provide that the State educational agency will be the sole agency for administering or supervising the administration of the plan;

"(7) provide for making such reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this part, including reports of the objective measurements required by paragraph (5) of this subsection, and provide for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports;

"(8) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the State, including any such funds paid by the State to local educational agencies;

"(9) provide satisfactory assurance that effective procedures will be adopted for acquiring and disseminating to teachers and administrators of gifted and talented children and youth significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects; and

"(10) provide satisfactory assurance that, to the extent consistent with the number and location of gifted and talented children and youth in the State who are enrolled in private elementary and secondary schools, provision will be made for participation of such children in programs assisted or carried out under this part.

"(b) The Commissioner shall not approve a State plan or a modification of a State plan under this part unless the plan meets the requirements of subsection (a) of this section.

"PAYMENTS

"SEC. 824. From the amounts allotted to each State under section 822 the Commissioner shall pay to that State an amount equal to the amount expended by the State in carrying out its State plan. Such payments may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

"SPECIAL PROJECT GRANTS

"SEC. 825. Fifteen per centum of the sums appropriated pursuant to section 821 for each fiscal year shall be used by the Commissioner to make grants to or contracts with public or private agencies or organizations for the establishment and operation of model projects for the identification and education of gifted and talented children and youth, including career education, bilingual programs, programs for the handicapped, programs for the disadvantaged, and development of community resources.

"ADMINISTRATION OF STATE PLANS

"SEC. 826. (a) The Commissioner shall not finally disapprove any State plan submitted under this part, or any modification thereof, without first affording the State agency administering the plan reasonable notice and opportunity for a hearing.

"(b) Whenever the Commissioner, after reasonable notice and opportunity for hearing to such State agency, finds—

"(1) that the State plan has been so changed that it no longer complies with the provisions of section 824; or

"(2) that in the administration of the plan there is a failure to comply substantially with any provisions, the Commissioner shall notify such State agency that the State will not be regarded as eligible to participate in the program under this part until he is satisfied that there is no longer any such failure to comply.

"JUDICIAL REVIEW

"SEC. 827. (a) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State plan submitted under section 823(b) or with his final action under section 826(b), such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

"(b) The findings of fact by the Commissioner if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(c) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"PART D—TRAINING OF PERSONNEL FOR THE EDUCATION OF GIFTED AND TALENTED CHILDREN AND YOUTH

"TRAINING GRANTS

"SEC. 831. The Commissioner is authorized to make grants to State educational agencies to assist them in establishing and maintaining, directly or through grants to public or other nonprofit institutions of higher learning, a program for training personnel engaged or preparing to engage in educating gifted and talented children and youth or as supervisors of such personnel.

"LEADERSHIP PERSONNEL TRAINING

"SEC. 832. The Commissioner is authorized to make grants to public or other nonprofit institutions of higher learning and other appropriate nonprofit institutions or agencies to provide training to leadership personnel for the education of gifted and talented children and youth. Such leadership personnel may include, but is not limited to, teacher trainers, school administrators, supervisors, researchers, and State consultants. Grants under this section may be used for internships, with local, State, or Federal agencies or other public or private agencies or institutions.

"APPROPRIATIONS AUTHORIZED

"SEC. 833. For the purposes of this part there is authorized to be appropriated for the fiscal year ending June 30, 1973, $15,000,000 and for the fiscal year ending June 30, 1974, $20,000,000. At least 50 per centum but no more than seventy-five per centum of the annual appropriation for this part shall be expended for section 831 in each fiscal year.

"PART E—RESEARCH AND DEMONSTRATION PROJECTS FOR THE EDUCATION OF GIFTED AND TALENTED CHILDREN AND YOUTH

"PROGRAM AUTHORIZED

"SEC. 841. (a) The Commissioner is authorized (1) to conduct, (2) make grants to States, State or local educational agencies,

public and nonprofit private institutions of higher learning and other public or nonprofit private educational or research agencies, and (3) enter into contracts with States, State or local educational agencies, public and private institutions of higher learning and other public or private educational or research agencies and organizations, for research and related purposes, relating to the education of gifted and talented children and youth.

"(b) As used in this section, the term 'research and related purposes' means research, research training, surveys, or demonstrations in the field of education of gifted and talented children and youth, or the dissemination of information derived therefrom, or all of such activities, including (but without limitation) experimental and model schools.

"APPROPRIATIONS AUTHORIZED

"SEC. 842. For the purposes of this part there is authorized to be appropriated for the fiscal year ending June 30, 1973, $14,000,000 and for the fiscal year ending June 30, 1974, $16,000,000."

Mr. CRANSTON. Mr. President, I am today cosponsoring, with Senator WILLIAMS, JAVITS, and other Senators, the Gifted and Talented Children's Education Assistance Act of 1972. It will bring Federal funds and services to the 111,700 Californians now enrolled in the State's mentally gifted minor program. It will also help identify children with unusual abilities who are not presently being served.

The bill creates a national clearinghouse on gifted and talented children, with $1 million authorized for fiscal year 1973 and another $1 million for fiscal 1974; it authorizes $50 million for fiscal year 1973, and $60 million for fiscal year 1974 for grants to States; it authorizes $14 million for fiscal year 1973 and $20 million for fiscal year 1974 for the training of personnel for the education of gifted and talented children and youth; and it establishes research and demonstration projects with an authorization of $14 million for fiscal year 1973 and $16 million for fiscal year 1974.

California's share of these authorized funds would amount to about $17,700,000.

National estimates of the number of gifted and talented children we should be serving range from 1.5 to 2.5 million.

California's mentally gifted minor program is one of the best in the country. The legislation I am cosponsoring will enable California to move further and faster in meeting the needs of the gifted and talented child and will encourage other States to follow California's lead.

We must not continue to neglect, at the Federal level, one of the most important resources we possess. As pointed out in a recent report to the Congress, our gifted and talented children and youth are possibly the most ignored of all groups with special educational needs. They are versatile and complex human beings, and they seldom excel without assistance.

The bill I am cosponsoring can go a long way toward developing the intellectual and creative skills of our Nation's children. It can bring to fruition human potentials to build a greater America and protect our society from stagnation and decay

GIFTED AND TALENTED CHILDREN'S EDUCATION ASSISTANCE ACT OF 1972

Mr. WILLIAMS. Mr. President, I am pleased to join with my colleague, the distinguished Senator from New York (Mr. JAVITS) in introducing the Gifted and Talented Children's Education Assistance Act of 1972. This bill will translate many of the recommendations of the Commissioner of Education's report to the Congress on the education of the gifted and talented into a meaningful basis of aid to the States to develop educational programs for this unique and highly talented population.

The findings and recommendations of the Commissioner's report argue most compellingly for the need for attention to this neglected population. Those findings are worth repeating here.

A conservative estimate of the gifted and talented population ranges between 1.5 and 2.5 million children out of a total elementary and secondary school population—1970 estimate—of 51.6 million.

Existing services to the gifted and talented do not reach large and significant subpopulations—for example, minorities and disadvantaged—and serve only a very small percentage of the gifted and talented population generally.

Differentiated education for the gifted and talented is presently perceived as a very low priority at Federal, State, and most local levels of government and educational administration.

Although 21 States have legislation to provide resources to school districts for services to the gifted and talented, such legislation in many cases merely represents intent.

Even where there is a legal or administrative basis for provision of services, funding priorities, crisis concerns, and lack of personnel cause programs for the gifted to be minuscule or theoretical.

There is an enormous individual and social cost when talent among the Nation's children and youth goes undiscovered and undeveloped. These students cannot ordinarily excel without assistance.

Identification of the gifted is hampered not only by costs of appropriate testing—when these methods are known and adopted—but also by apathy and even hostility among teachers, administrators, guidance counselors, and psychologists.

Gifted and talented children are, in fact, deprived and can suffer psychological damage and permanent impairment of their abilities to function well which is equal to or greater than the similar deprivation suffered by any other population with special needs served by the Office of Education.

Special services for the gifted—such as the disadvantaged—and talented will also serve other target populations singled out for attention and support.

Services provided to gifted and talented children can and do produce significant and measurable outcomes.

States and local communities look to the Federal Government for leadership in this area of education, with or without massive funding.

The Federal role in delivery of services to the gifted and talented is presently all but nonexistent.

Probably the most important single finding of the report is that these children cannot be ignored and be expected to achieve to their potential without special programs. Overlooking the special needs of those with great intellectual capacity results in boredom for the child, overwhelming underachievement, and loss of important resources for society.

These are outcomes that we cannot afford.

It is clear that programing and a greater commitment is needed for the gifted and talented. I believe that is is also reasonable to expect that this programing will have important results for all areas of education. Special programing for individual needs will be an important tenet of education in the future. It is time for us to begin planning for that time, and this legislation offers an excellent first step.

Mr. TUNNEY. Mr. President, it gives me great pleasure to cosponsor with the Senator from New York (Mr. JAVITS) a bill which could amend the Elementary and Secondary Education Act to establish for the first time a program to design and develop Federal programs for gifted and talented children.

This program would be designed to serve those children who have outstanding intellectual ability or creative talent, the development of which requires special activities or services not ordinarily provided by local educational agencies.

First, a national clearinghouse on gifted and talented children would be established to obtain and disseminate information on identification, counseling, and education of gifted and talented children.

Second, funds are authorized for grants to States for education programs for gifted and talented children preschool through high school. These funds would be allocated to the States on the basis of population between the ages of 3 and 18. Fifteen percent of these appropriations would be reserved for special project grants outside State allocation formula.

Third, funds are authorized for the training of personnel for the education of gifted and talented children and youth. One of the most important and complex areas involves the training of personnel who can spot and train the gifted child.

Fourth, funds are authorized for research and demonstration projects for the education of gifted and talented children.

Today educational programs develop and support curriculum designed to meet the needs of what is commonly referred to as "the majority." What is overlooked in this philosophy of educating children is that "the majority" describes a statistical group and neglects to define each individual child that makes up this group. In reality by designing a system to meet the needs of a statistically defined group, "the majority," we may indeed be failing each and every member of the group—each and every one of our children.

As a country we provide education for all of our children because we feel it is a necessity for the future of our country and our world. Every child has the right to develop to his full potential and our educational system and philosophy should guarantee this. The gifted child in society today holds a position of limited status—he is respected by the public at large, he is envied by the parents of his peers, and he is neglected by our educational system. Society and educators alike expect him to be able to cope with his environment, because of his special abilities; he is expected to succeed in spite of us rather than because of us.

The gifted child is just like any other child in our society today—he is a human being. Just because he is different from other children, different from "the majority," doesn't entitle him to any more than any other child in our educational system, but conversely it does not entitle him to any less.

Today an equal philosophy of education means that both teaching and learning should be directed toward meeting the needs of the individual child. We must strive to strengthen each child in the areas each needs most. In meeting the needs of the gifted child in this country we must create new programs that cut across cultural, language and economic barriers, programs that bridge the gap between the rich and the poor, between urban and rural, and between slum and suburb: programs that are directed toward meeting the individual needs special to these children.

It is to these needs that this legislation is directed. Funds have before been appropriated to meet these recognized existing needs under exceptional children legislation, but too often the gifted child is defined as the lowest priority and such funds are nonexistent long before his level of priority is ever reached for help. The gifted child is considered an exceptional child not because of his giftedness alone, but also because of the special problems he has as an individual. The gifted child suffers social and emotional problems that are real and grave, not only to his mental health as a human being but also to his ability to function as a part of the social system we all live within. There exists in society as a whole an overstress on the academic ability of the gifted child. Stress on the academic ability of the gifted child is out of proportion also in most existing educational programs. His brightness is easy to identify and teach to; it is, however, his social and emotional makeup that contribute to his low self-value, his personal self-esteem that must be taken into account by society and educators alike. This legislation concentrates on the gifted child as he is—a whole person with his own special problems that must be recognized and solved.

The term "gifted" has come to have a loaded meaning in our society and whenever a term causes as much reaction as this one does it is bound to result in some bias. It is, therefore, very easy to forget that being gifted alone is not the only important fact about this exceptional child; it is just one isolated fact more that can be used to describe this child. And, just as an isolated fact may or may not fully explain a particular individual, so a general term, such as gifted, may or may not fully represent a unique individual. The whole may well be the sum of its parts but, conversely, knowing one part—that is, a child is gifted—does not explain the whole.

The gifted child is not a miniature adult, and we must not treat him as one either in our society or in our educational system; rather we must provide the best possible environment both socially and educationally in which he can grow and develop—learning from as well as enjoying his childhood. Every child must be allowed to be a child—a luxury we now give our children and must never remove. Today in this age of science we seem to want to relate every child to a hypothetical group that forms a normal curve; but it is the child himself; the why and the how of his behavior, that makes him an individual who can never be adequately or completely described by a test or a number. A child is not a symbol but a real person interacting with his environment; he has real needs and real problems; the goals of educations and legislators alike must be to help the individual child to be understood for his uniqueness rather than categorized for his sameness.

Let us not be found wanting in providing the best possible education for each individual child in our society. If we do not do it then who will? If we do not do it now then when will we? Why does it always seem to be that those who in life are in need of so much are so often in truth cut short?

In addition to this legislation there is also a need for funds to restandardize the Stanford-Binet to take into account cultural factors not now covered by this widely used test. Present measures fail to locate half of the gifted and talented in our population.

A new individual test should be developed to take into account more cultural factors and language difficulties, such as when English is not the native or spoken language in the home of the child.

An individual test such as the Stanford-Binet costs about $60 per student to administer. The State of California provides $40 per student tested. Because of the cost it is many times impractical to test individually a large number of students. Additional Federal funds should be made available for such testing since many States have no such provision for testing funds.

New funds are also needed to redevelop existing paper and pencil IQ tests which are now given to the majority of children in the country. Since this type of test would be the original and in some cases the only device used to identify gifted children, it also needs to be greatly improved.

Both its reliability and validity have been questioned widely by educators for some time. Funds should be made available to develop a new test which would provide a profile rather than just a score on a child. Such a profile would contain constructive information that could be used by teachers and other interested parties for more than mere labeling of a child and his so-called intellectual potential. Rather a new test should seek a more individualized approach to cognitive understanding and development of the child. This would give all children a better chance as well as make identification of the gifted in all areas easier.

Additional provision and funds should be made available to allow the exchange of residency of administrators and teachers in parts of the country where gifted children's programs need to be developed or in parts of the country where existing programs can be studied. Such a program would accelerate the development of individualized quality educational personnel.

Finally funds should be provided to hire classroom aids to reduce the student teacher ratio—a prerequisite to individualized instruction. At this time a new 2-year AA degree is being introduced into the California junior college vocational program that could be used to train people to aid classroom teachers.

A similar program also exists at the junior college level in other parts of the country. This would keep program costs down as well as being able to provide excellent teachers in all areas backed up by aides that are also trained to help both the teachers and the children.

If we were to attempt to meet the national needs of gifted children there would be a serious shortage of teachers having specific training to meet the needs of gifted children. Teacher training and teacher selection is probably the single most important factor in gifted children programs.

By Mr. THURMOND:

S. 3383. A bill to amend the Internal Revenue Code of 1954 to encourage the use of recycled oil. Referred to the Committee on Finance.

THE NEED FOR THE RECYCLING OF OIL

Mr. THURMOND. Mr. President, I have recently become aware of an issue facing this country which would have disastrous effects on our environment if appropriate congressional and administrative action is not taken immediately. This issue involves not only the prevention of a major form of air and water pollution, but also the conservation of a critical natural resource. The problem involves the dumping of used lubricating oil into our water supply and indiscriminate burning of other used petroleum products.

The used-oil problem is staggering. About three-quarters of 1 billion gallons of this precious commodity are wasted every year. However, wastage could be significantly reduced and the environment preserved by recycling.

For over 40 years, small businessmen have been dealing with recycling oil, and the Association of Petroleum Rerefiners has been trying since 1950 to draw attention to discriminatory Federal actions and rulings that threaten the very existence of the entire industry.

Mr. President, there are many individuals who are unaware of this situation and of the fact that lubricating oils can be cleaned up and literally refined over and over again to their original quality. I feel that the least we can do at this

late date is to listen to the rerefiners' story with a sympathetic ear, and act to redress their very real grievances.

Let me explain the situation briefly. Only about half of the estimated 2½ billion gallons of lubricating oils sold for industrial and automotive use in the United States every year is actually used up. This means that the other half is drained at service stations, garages, airfields, railroad yards, bus and truck terminals, auto fleet headquarters, and industrial plants. More than 1 billion gallons of valuable oil could be recycled back into lubricating form and quality, yet 75 percent of it, according to recent studies, is wasted.

Mr. President, used oil is not just wasted, but it becomes a powerful pollutant of air and water. Whatever portion of those 750 million gallons that is dumped on purpose, or just allowed to drain down into the water supply, remains a health hazard almost indefinitely. Just as lube oil will not break down under the extreme temperatures and pressures of the automobile engine, so it will not break down for years when left in lakes and streams. On the other hand, whatever portion of those 750 million gallons that is burned, even when blended in small ratios with bunker fuel under carefully controlled burning conditions, may still contribute millions of pounds of metallic oxides that never break down.

Mr. President, even in view of this problem, very little of this valuable and potentially dangerous oil is rerefined and recycled. The reason is that the Federal Government has imposed obstacles and restrictions that actually prevent the petroleum rerefiners from marketing their products in competition with the major oil companies. GSA will not buy it for use in Government vehicles; IRS makes off-highway users pay extra for it; FTC insists that every can be labeled so that very few motorists will buy it; and no one will set oil quality standards and performance requirements that will give the rerefiners a chance to prove that their product can be just as good as the original. This is an incredible series of discriminatory practices which came into existence through a series of unfortunate circumstances.

Mr. President, in 1965 the Excise Tax Reduction Act leveled a double-barreled blast at the rerefiners. Before that time there had been a 6-cent-per-gallon tax levied on the manufacturer of lubricating oil which was paid by the first user of this oil. Since rerefiners were exempt from paying this tax—the tax on the original oil had already been paid—the net result was a 6-cent-per-gallon competitive edge. In 1965, the Internal Revenue Service ruled that because these tax funds were to go into the Highway Trust Fund, off-highway users, notably railroads, could be refunded their full tax payments at the end of the tax year when they purchased 100 percent new lubricating oil. IRS also refused to allow tax refunds on any new oils that were to be blended with rerefined oil, as is often the case when the rerefiner wants to meet the viscosity requirements of the ultimate user. Thus, the rerefiners lost their 6-cents-per-gallon margin among off-highway users, and are penalized for manufacturing blended oils for off-highway users.

Also in 1965, the Federal Trade Commission ruled that all containers of rerefined oil produced for sale to the public had to be prominently labeled "previously used." While a true description as far as it goes, the obvious connotation of inferiority quickly plummeted retail sales of rerefined oil to half the previous level, and the industry never recovered its share of this massive consumer market.

Obviously, what is desperately needed is some scientific and impartial way to determine the quality of lubricating oil in terms of performance rather than source. One set of requirements should be established by which one can evaluate used and new oils. Until we have performance requirements for rerefined oils, the rerefiners and those who use their products will be stymied.

As a result of these handicaps, more than half of the rerefiners have been forced out of business in the past 7 years. It seems that the U.S. Government has weighted the scales against the small businessman. Unless something is done soon, the rest of the rerefiners must also close down. If this happens, what do we do with these 750 million gallons of waste oils?

The January 1971 issue of Fortune magazine featured an article entitled "Metallic Menaces in the Environment." It quotes Dr. Henry A. Schroeder, of the Dartmouth Medical School, as saying:

> Pollution by toxic metals is a much more serious and much more insidious problem than is pollution by organic substances. Most organic substances are degradable by nature; no metal is degradable.

Walter C. McCrone Associates of Chicago was asked to analyze the combustion products present in waste oils before they are rerefined. This report pointed out that more than 1,000 pounds of metal oxides—mostly lead, but with lesser amounts of calcium, phosphorous, barium, and others—are released when 10,000 gallons of waste oils are burned. If we assume that only 260 million gallons were burned last year, generally regarded as a conservative figure, we come to the frightening conclusion that at least 26 million pounds of metallic oxides were released through burning last year.

Mr. President, this brings us to the realization that waste lubricating oil has to be treated somehow prior to disposal. Whether recycled back into lubricating form or blended with bunker oils as the American Petroleum Institute recommends, there must be some process to remove the metal additives. It has become almost a technological race—the demands of the auto engines for more powerful additives to improve performance versus the ability of the rerefiners to identify and remove these additives. It is time we threw our strength behind the continuing efforts of the rerefiners to win this race, not only to claim the oils, but also to find some economic use for the sludge that contains these unrerefinable additives.

Last year, the petroleum rerefiners managed to recycle only 150 million gallons. Given an improvement in the labeling rules, the same excise tax refund now given off-highway users of new oil and legislation that will result in performance requirements being substituted for meaningless source specifications, the rerefiners will be able to take care of substantially more of the 750 million gallons to be drained in 1972. In years past, their performance has approached this level and it can again.

Mr. President, I am introducing a bill which would amend the Internal Revenue Code of 1954 to encourage the use of recycled oil. It is my opinion that we must take steps to clean up our environment and also take steps to preserve our dwindling natural resources. This bill is just one step in this direction, but it is a necessary one. Not only will this bill help to control pollution and preserve a natural resource, but it would also help to revitalize a faltering industry.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD at the conclusion of my remarks.

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

S. 3383

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4091 of the Internal Revenue Code of 1954 (imposing a 6 cents a gallon tax on lubricating oil) is amended—

(1) by inserting "and other than re-refined oil" after "other than cutting oils", and

(2) by adding at the end thereof the following new sentence: "For purposes of this section and section 6424, the term 'refined oil' means oil produced from used oil or from a blend of used oil and virgin oil."

(b) Section 6424 (a) of such Code (relating to payments for lubricating oil not used in highway motor vehicles) is amended by adding at the end thereof the following new sentence: "For purposes of this section, the use of virgin oil in re-refined oil (as defined in section 4091) shall be treated as use otherwise than in a highway motor vehicle."

SEC. 2. The amendments made by the first section of this Act shall apply to re-refined oil produced on or after the first day of the first calendar month which begins after the date of the enactment of this Act.

By Mr. MANSFIELD (for Mr. JACKSON) (for himself and Mr. ALLOTT) (by request):

S. 3384. A bill to amend the Water Resources Planning Act to authorize increased appropriations. Referred to the Committee on Interior and Insular Affairs.

Mr. MANSFIELD. Mr. President, on behalf of the Senator from Washington (Mr. JACKSON), I introduce a bill and I ask unanimous consent that a statement prepared by him in connection with the bill be printed at this point in the RECORD.

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

STATEMENT BY SENATOR JACKSON

Mr. President, by request, and on behalf of myself and the senior Senator from Colorado (Mr. Allott), I send to the desk for appropriate reference a bill to amend the Water Resources Planning Act to authorize increased appropriations.

Mr. President, this draft legislation was submitted and recommended by the U.S. Water Resources Council, and I ask unanimous consent that the executive communication and explanation accompanying the proposal from the Chairman of the Water Resources Council be printed in the Record at this point in my remarks.

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

U.S. WATER RESOURCES COUNCIL,
Washington, D.C., March 8, 1972.

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

DEAR MR. PRESIDENT: Enclosed is a draft bill "To amend the Water Resources Planning Act to authorize increased appropriations."

This bill would establish explicitly a separate and additional category for funding the national water and related land resources assessment and the management and coordination of regional and river basin plans through the Council. It would also provide explicitly for the transfer of funds for these purposes to river basin commissions and to Federal and State agencies.

At present, Section 401 of the Water Resources Planning Act (79 Stat. 244, 42 USC 1962 *et seq.* as amended by P.L. 92–27) imposes annual ceilings of (a) $6,000,000 for administration and operation of river basin commissions, with no more than $750,000 for any single commission; and (b) $1.5 million for the expenses of the Water Resources Council in administering the Act. These ceilings would not be changed by the bill.

The need for the bill is twofold. First, an increase in the total of the ceilings presently in the Act is necessary to accommodate the Administration's proposed FY 1973 budget for the Council. Second, the creation of a funding category for the national assessment and for planning study direction and coordination will more accurately reflect the current responsibilities and operations of the Council.

The increase is due wholly to proposed increases in FY 1973 funding of direction and coordination of the preparation of planning studies, and to anticipated future increases in funding the national assessment. Because of the importance of these closely interrelated activities, we believe that they clearly warrant a distinct identification in the Council's funding authorization, as proposed in the bill.

It is important to note that the bill does not propose central funding by the Council of regional and river basin planning studies. Transfers of funds for these studies would be limited solely to facilitating the Council's directing and coordinating role. Preparation of planning studies would continue to be funded by individual participating agencies on a coordinated budget basis, rather than centrally by the Council.

The proposed bill will provide an explicit identification and specific ceiling on these functions without changing the other ceilings in the Act.

The Office of Management and Budget advises that the enactment of this bill would be consistent with the Administration's objectives.

Sincerely yours,

ROGERS C. B. MORTON, *Chairman.*

Enclosure.

PROPOSED CHANGES IN AUTHORIZATION

The attached draft bill proposes amendments to the Water Resources Planning Act to provide specific funding through the Council for the preparation of assessments and the direction and coordination of the preparation of regional and river basin plans. No change is proposed in the present ceilings for the separate categories of WRC administration. Title II river basin commissions, and Title III grants.

SECTION-BY-SECTION ANALYSIS

Subsection (a) retains the present ceilings for river basin commissions but adds a clause that clarifies that the direction and coordination of the preparation of certain Federally sponsored planning studies undertaken by river basin commissions apart from their annual operating activities would be funded under subsection (c) below rather than under this subsection.

A similar clause added to subsection (b) would make clear that funds for the Council's direction and coordination of the preparation of planning studies, including the costs of study managers, would be excluded from this ceiling and placed in a separate category under subsection (c) below.

Subsection (c) would provide a specific ceiling as well as a means for funding assessments by transfer of funds from the Council. It would also make explicit the Council's authority to direct and coordinate the preparation of comprehensive planning studies (excluding implementation studies) by direct expenditure and by transfer of funds to river basin commissions and to Federal and State agencies. It would also remove any possible legal impediment to such transfers of funds to Federal agencies or river basin commissions. Actual preparation of the studies would continue to be funded by individual participating agencies on a coordinated budget basis, rather than centrally by the Council.

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

S. 3386. A bill to amend the Labor Management Relations Act, 1947, to permit employee contributions to jointly administered trust funds established by labor organizations to defray costs of legal services. Referred to the Committee on Labor and Public Welfare.

Mr. WILLIAMS. Mr. President, I send to the desk legislation, today, which would amend the Taft-Hartley Act to allow the creation of joint labor-management trust funds for providing prepaid legal services to employees covered by collective-bargaining agreements.

The bill is a proposed amendment to section 302 (c) of the Labor-Management Relations Act of 1947, which presently sets out the fringe benefits which may be established through joint labor-management administration. These fringe benefits are presently limited to such subjects as pensions, health and welfare plans, life and accident insurance and such matters as education, training, and child day care centers. This bill would add legal service programs to this list.

The legislation has been made necessary because of the growing recognition that existing methods of delivery of legal services to middle and working class citizens are inadequate, and that the establishment of legal service programs through collective-bargaining, in a manner similar to the way health benefits were established, would be an important step forward toward alleviating this problem.

Several State bar associations, including New Jersey and California, are already studying the feasibility of establishing a Blue Cross type of statewide system for legal service delivery and a few such programs are already in operation elsewhere. Therefore, remedial legislation of a technical nature will be necessary to encourage this development and an amendment to section 302 would be an important step in this direction.

The bill would merely make legal services a permissible jointly administered fringe benefit, but would not require the establishment of such program if labor and management did not agree.

I am introducing this legislation, as is Congressman FRANK THOMPSON, my colleague from New Jersey, in the other body.

I hope that both Houses will be able to reach agreement on this important legislation.

Mr. President, I ask unanimous consent that the text of the bill as well as some news reports on the efforts being made in my State be printed in the RECORD.

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

S. 3386

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 302(c) of the Labor Management Relations Act, 1947, is amended by striking out "or (7)" and inserting in lieu thereof "(7)" and by adding immediately before the period at the end thereof the following "; or (8) with respect to money or any other thing of value paid by any employer to a trust fund established by such representative for the purpose of defraying the costs of legal services: *Provided,* That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds."

STATE BAR BACKS INSURANCE PLAN FOR LEGAL COSTS

(By Herb Jaffe)

A plan to establish prepaid insurance for legal services was approved by the New Jersey State Bar Association's Board of Trustees yesterday, paving the way for the nation's first program of this kind.

State Bar President Joseph T. Grause said the only remaining hurdle for such a plan would be approval by the State Supreme Court Committee on Ethics.

"I expect the plan to be in force in New Jersey before the end of this year," Grause said.

He explained that the plan, still in the concept stage, would be designed to make legal services available to middle income and lower middle income people in particular.

Persons who earn less than $3,500 a year already are entitled to free legal assistance under the Office of Economic Opportunities.

The board of trustees, in a statement, said the plan would be financed on a basis similar to Blue Cross and Blue Shield coverages, where periodic premiums would entitle subscribers to a schedule of services.

The State Bar will appoint a special subcommittee shortly to devise a model plan and to evaluate bids from several insurance companies which have expressed interest in operating the plan, Grause explained.

Among the interested insurers are Blue Cross and Motor Club of America, he added.

The board said the plan would be available to groups and private individuals.

Emanuel Honig, a member of the State Bar's Availability of Legal Services Committee, pioneered the plan and recommended its adoption after consulting extensively with American Bar Association officials two weeks ago.

Honig said the State Supreme Court will be urged to adopt a rule requiring lawyers

to register and disclose associations with the program.

He said the model plan that will be devised by the subcommittee which will be appointed will be submitted for review to the Supreme Court Ethics Committee.

[From the Sunday Star Ledger (N.J.), Feb. 13, 1972]

BLUE CROSS LEGAL FEE PLAN AWAITS STATE BAR ACTION

(By Herb Jaffe)

A statewide prepaid insurance plan for legal services could be made available to New Jersey residents before the end of the year if the concept gets the first-stage approval of the State Bar Association's Board of Trustees.

Officials of both the State Bar Association and New Jersey Blue Cross, who spent three days at an American Bar Association conference in New Orleans last week reviewing the subject, said yesterday they want to make New Jersey the first state to adopt the innovative plan.

The ABA has been studying the concept for several years and has helped sponsor experimental studies in Los Angeles and Shreveport, La. The Ford Foundation is a cosponsor in the Shreveport study.

The advantage of employing the plan statewide, based on New Jersey actuarial data, will be discussed Friday at a meeting of the State Bar Board of Trustees.

However, State Bar officials have quietly expressed optimism over the concept, and Blue Cross is confident it can obtain approval to allow the non-profit organization to serve as coordinator of the coverage.

In effect, the plan would operate in the same manner as Blue Cross, where subscribers would pay periodic premiums to Blue Cross in return for the insurance that would entitle them to go to any member lawyer for any service.

The details of the extent of services have not yet been determined, but just as hospital insurance under Blue Cross has its limits, the plan is expected to provide maximum limits of coverage.

Group legal service insurance is also under consideration by the State Bar, and according to Seton Hall Law School Professor Theodore Meth, "I could see group coverage being available even before a plan for the general public."

Meth, who also attended the ABA conference last week, said the data required to establish group premiums would be easier to compile, "and in all probability, the premiums for groups would be even lower because of certain built-in cost savings devices."

Meth said that administration has a significant effect on the cost of any insurance. "But a labor group, for example, already has its checkoffs as a result of pension funds, hospitalization and other group benefits that now exist.

"The machinery for administration is already there, and there would be a further savings in the manner of collection of premiums," he added, citing the same checkoff system that already exists.

Meth added that labor groups also could provide much of the necessary actuarial data right at the start.

Raymond Fairty, a Blue Cross vice president, also attended the ABA meeting and came away equally impressed. "We don't know what the cost would be at this point only because we would need a thorough actuarial determination," Fairty explained.

He said, however, that Blue Cross is exploring all the regulation by the State Insurance Department and any legislation that might be required.

State Bar president Joseph T. Grause, president-elect Martin L. Haines, and executive Director Francis J. Bolduc also attended the ABA meeting and are expected to report optimistically to the board of trustees.

Emanuel A. Honig, who also attended as a representative of the State Bar's Availability of Legal Service Committee, said that ABA committee chairman William McAlpin called the New Jersey proposal for a possible statewide plan to begin as soon as possible "fascinating and exciting."

Honig said the ABA committee encouraged the New Jersey Bar "to proceed as expeditiously as possible."

Honig added, in a report to the board of trustees, that "probably the single most difficult issue to resolve will be acceptance by the Bar of the limitation respecting the fees which lawyers will receive under the plan."

He said the ABA, from its experience in the two studies, suggested that a ceiling for coverage be fixed so that if a lawyer's bill exceeds such a limit, he would first be asked if he is prepared to resumit a bill that would reduce the amount.

"If an attorney refuses to accept the limitation, he will be severed from the panel of participating attorneys," the state report says.

In proposing an alternative for the board of trustees on lawyer conformance to the plan, Honig's report adds:

"It is also possible to offer an optional program under which the plan will pay up to the maximum fee fixed by the ceiling, permitting the attorney to bill the client for any excess."

The report also says that a symbol and a trade name, such as that which accompanies Blue Cross is also being studied by the ABA.

It adds that of immediate concern is a structure of premiums and benefits that would have to be established.

One source at the New Orleans meeting told the New Jersey delegation that a figure of $10 per month has been discussed as a possible premium for the coverage from non-group subscribers.

The only solid indication thus far of cost and other factors involved comes from Shreveport and is based on three months of experimentation involving some 700 construction workers in a group plan.

The ABA and the Ford Foundation were prepared to pay the legal fees during the first year of the pilot study of up to $103,000. The most conservative expectation of the two organizations was that 30 per cent of the workers would use the plan, and that it would cost $34,500.

But during the first three months, there was no evidence of abuse in the plan by subscribers. In fact, only 25 of the insured consulted lawyers, which if projected for a 12-month period would involve less than $20,000, considerably under the conservative projections of the ABA and the Ford Foundation.

ABA officials and actuaries had little to go by in setting up the plan, which accounted for the over-projection. However, it was estimated that two cents an hour per worker would cover the premiums based on early returns. This would amount to about $3.50 a month based on a worker's 40-hour week.

[From the New Jersey Law Journal, Feb. 17, 1972]

STATE BAR AND BLUE CROSS STUDYING LEGAL SERVICE INSURANCE

Officials of both the New Jersey State Bar Association and the New Jersey Blue Cross, after spending several days at a conference held in New Orleans last week as part of the ABA midyear meeting, reported they were interested in setting up a statewide prepaid legal service insurance plan for New Jersey to be operated by the Blue Cross with the endorsement and possible regulative participation to some extent of the State Bar. In effect the plan would operate in the same manner as the Blue Cross, with subscribers paying premiums to Blue Cross in return for insurance entitling them to go to any participating lawyer for legal services on a fixed fee schedule arrangement. The schedule may or may not provide for payments by the insured over the amount of the insurance fee allowed and may or may not provide for a deductible amount before the insurance comes into play, just as with the deductible hospitalization policy. It would in all probability be similar to the Blue Shield arrangement.

The details of the extent of services which would be covered have not yet been determined nor the exact manner of operation but both the State Bar and the Blue Cross are studying the matter and hope to make New Jersey the first state to adopt such a plan. The feasibility of adoption of such a plan, based on New Jersey actuarial data and on the data available from the experimental studies in Shreveport, La. and Los Angeles, will be discussed by the State Bar Board of Trustees at their meeting tomorrow.

Emanuel A. Honig, who also attended the ABA meeting as a representative of the State Bar's Availability of Legal Services Committee, has submitted a report to the Trustees on the proposal and on alternative remuneration plans which could be adopted. His report will be studied by the Trustees.

PRELIMINARY REPORT OF EMANUEL HONIG ON PREPAID GROUP LEGAL SERVICES

FRANCIS J. BOLDUE,
Executive Director, New Jersey State Bar Association.

I write this letter as a report to the trustees of my conference with representatives of the A.B.A. Committee on Prepaid Legal Services and my attendance at the conference on this matter at the New Orleans convention. I met with William McAlpin, chairman of the committee, and Philip Murphy, staff administrator, and Wesley M. Sokol on Saturday and Mr. Fairty of Hospital Service Plan of New Jersey, and I met again with Mr. McAlpin on Sunday.

We discussed all phases of the proposal in full detail. The reaction of Mr. McAlpin was identical with mine as I was first approached by Blue Cross, namely that the proposal was fascinating and exciting. Mr. McAlpin discussed the entire subject with his executive committee which feels the same way and wants to encourage us to proceed as expeditiously as possible.

The A.B.A. has been unsuccessful in all of its previous efforts to obtain participation by a non-profit insurer. The committee has made overtures to numerous other Blue Cross organizations in various states throughout the nation without success to date. In some instances the cause of this reluctance on the part of such organizations to consider the matter was apparently due to the format of their organizations and the law applicable in their jurisdictions. In other instances there was insufficient interest shown by the bar association of the state.

Mr. McAlpin indicated that the A.B.A. would feel much more comfortable with a Blue Cross organization than with a conventional insurance carrier and he has asked me to keep in close contact with him respecting our progress and has offered to make his staff available to us in any manner we desire for technical assistance.

I have asked Dickinson R. Debevoise to call an immediate meeting of the Committee on Availability of Legal Services so that this committee may officially consider the proposal as well as other related matters which were brought to my attention at the conference. I further recommend that the trustees now consider whether the New Jersey State Bar Association will officially sponsor the project.

I must, however, call your attention to a number of problems and issues which require

study and consideration. While the Committee on Availability of Legal Services may be the appropriate standing committee to administer further consideration of the program, the trustees will have to supervise all aspects of the studies and may find it desirable to appoint a special committee or committees with respect to various phases of the matter. These problems include the following:

1. It may be necessary to secure enabling legislation to authorize Hospital Service Plan of New Jersey or such separate corporation as it may desire to organize, to administer the plan. Blue Cross heretofore conferred with Commissioner Robert Clifford and obtained an informal opinion from him that legislation may not be requisite. Mr. Fairty and I feel that, if it is at all possible, an attempt should be made to initiate a plan without special legislation, even though a voluntary effort to procure such legislation may be justified at a later date. We share this view because any attempt to secure legislation may be protracted and may delay our program. Thus, for example, the recently established dental program was delayed for a number of years because of difficulty in securing approval of an enabling statute. I suggest that we confer with Commissioner Clifford for his advice in the matter.

2. Probably the single most difficult issue to resolve will be acceptance by the Bar of the limitation respecting the fees which they will receive under the plan. It is contemplated that Blue Cross (this name will be used throughout to designate the proposed carrier) will pay "usual and customary fees" so that lawyers can bill on the basis of normal charges. However, there will be a ceiling which the governing body of the organization will fix so that when a bill exceeds this amount the attorney in question will be informed that his bill exceeds limitations and he will be asked to consider whether or not he is prepared to resubmit a bill in a lower amount. The precise amount of the fee fixed by the ceiling will not be disclosed, for obvious reasons. If an attorney refuses to accept the limitation, he will be severed from the panel of participating attorneys. Obviously, great care must be exercised in obtaining acceptance of this concept within the Bar.

It is also possible to offer an optional program under which the plan will pay up to the maximum fee fixed by the ceiling, permitting the attorney to bill the client for any excess. A decision will have to be made respecting the advisability of such a policy. In my view, the Bar would be well advised to avoid such an alternative.

3. In order to qualify the plan, it appears that Blue Cross will have to provide the necessary reserves required by the Department of Insurance. There is some question concerning the nature of the plan as insurance coverage because it is contemplated that benefits will be paid directly to lawyers rather than to members. However, if a separate corporation is to be organized, reserves would be required. This is a problem for Hospital Service Plan of New Jersey to resolve but I am informed that they feel they have the authority to invest in other corporations and subsidiaries. We must merely understand that the resolution of this problem will be prerequisite to the establishment of a plan.

4. Hospital Service Plan of New Jersey contemplates that it will be advisable to establish a new corporation to operate the plan. This may be a subsidiary of Hospital Service Plan of New Jersey or other corporate structuring may be undertaken, the details of which need not be discussed at this time. However, a name must be developed for the plan and it is our feeling that a symbol such as "Blue Cross" must be devised. We discussed this with Mr. McAlpin because we all feel that some uniform nationally recognized symbol or trademark should be used to give the program national scope. Since no one else is working on a plan, no decision has been made in the matter, although a number of names have been suggested. It will also be necessary to work out details respecting the composition of the board of the corporation. We must resolve the question whether the Bar Association desires to designate lawyer representatives or whether it would be preferable to have lawyers individually named. We do feel that the president of the State Bar Association should automatically be a member of the governing body. Obviously, also, careful consideration must be given to the selection of representatives from other sectors of the public and it seems apparent that organized labor will want to participate actively. We have also discussed the desirability of having the State Bar Association act as an advisory committee or board to the governing body of the corporation.

5. The immediate problem will be to devise a return structure and a schedule of benefits. There is little actuarial experience available as a guideline at the present moment, and to a large extent Blue Cross will have to pioneer the field. Considerable help is available from the pilot projects now under way and this will be made available to us if we desire. However, it is in the field of schedule of benefits that Blue Cross will most need our services and advice. Immediate consideration should be given to the enlistment of a group of experienced lawyers to assist in this phase of the project.

6. Mr. Fairty cannot presently give any indication as to the time which would be required to implement the program so that the legal service plan can be put into operation.

7. Edward B. McConnell, the Administrative Director of the Courts, has reviewed my original report and has advised me by letter that we should seek a formal opinion from the Advisory Ethics Committee of the Supreme Court respecting the validity of a prepaid legal service project. I suggest that such an opinion be solicited officially by the Committee on Availability of Legal Services at the same time as it seeks reconsideration of a prior opinion declaring that a system for financing legal services through promissory notes discounted by banks is impermissible.

8. Apart from this plan, there are implications in the prepaid legal services movement which will have serious consequences for the practice of law in our state. It appears that in many other states private programs are being organized either by bar associations on the same pattern as the Shreveport and Los Angeles programs or along differing avenues as diverse as the imagination of their sponsors can conceive. It also appears that private insurance carriers are getting into the field and we discussed with representatives of some states the probability that at least one or two insurance companies would file a plan within the next sitxy days. Likewise group legal service concepts are surfacing which contemplate providing prepaid legal services to groups, particularly to labor unions, teachers associations, etc. Theodore Meth was at the conference on behalf of a Carpenters Union, which he represents in New Jersey, and he indicates that he is about to organize a group legal service program for such a union in New Jersey. The decision of the United States Supreme Court in United Transportation Union v. The State Bar of Michigan, 401 U.S. 576 (1971) makes it clear that group legal services will no longer be limited to a format under which the services are incidental and directly related to the employment of the member. This poses serious problems with respect to the practice of law which the trustees must now consider.

I strongly recommend that we urge the Supreme Court to adopt a rule requiring all lawyers who are engaged in group legal service representation to register with the court, similar to Rule 20 adopted by California, where the group legal service projects may create serious problems with respect to the Code of Professional Responsibility.

Because Mr. Meth is directly interested in the program, I am taking the liberty of sending a copy of this report to him and I will suggest to Mr. Debevoise that he invite Mr. Meth to the next meeting of the Committee on Availability of Legal Services.

9. The Trustees should also give consideration as to how further publicity should be given to the project in the future.

Sincerely,

EMANUEL A. HONIG.

RECOMMENDATIONS OF THE COMMITTEE ON AVAILABILITY OF LEGAL SERVICES

The following are the recommendations of the State Bar Committee On Availability of Legal Services, concerning prepaid group legal services, which were submitted to and adopted by the Board of Trustees at their meeting on February 18:

To: All Members of the Board of Trustees of the New Jersey Bar Association

Gentlemen:

The purpose of these recommendations is to further the objective of making quality legal services readily available to middle income and low-middle income persons.

The specific recommendations are as follows:

1. The concept of pre-paid group legal services should be endorsed.

2. Groups considering specific plans should be requested to submit their plans to this Committee for its information.

3. The State Bar Association, acting through this Committee, should offer its cooperation to groups preparing plans for prepaid legal services, such cooperation to take the form of advising generally as to such plans and in particular as to matters which affect the legal profession such as benefit payments.

4. The New Jersey Supreme Court should be urged to adopt a new rule which would require registration for disclosure purposes of all plans for pre-paid group legal services and send a listing of all attorneys who were associated with any closed plans.

5. The State Bar Association should appoint a special committee which would be a sub-committee of this committee to devise a model plan for pre-paid legal services insurance. The committee's function would be to propose the substantive provisions of such a plan and to make recommendation as to what agency should administer such a plan. There should be included on the committee from the outset representatives of the public which would benefit from such a plan.

6. After a model plan has been proposed, it should be submitted to the Supreme Court Committee on Professional Ethics for review and, hopefully, approval.

7. When the concept of pre-paid group legal services is implemented, there will have to be very close coordinating and planning in the areas covered by the Committee for the Availability of Legal Specialization, and by the Committee of Law Referral.

Respectfully submitted,

DICKINSON R. DEBEVOISE, *Chairman.*

By Mr. HRUSKA:

S. 3388. A bill to impose a moratorium on new and additional student transportation. Referred to the Committee on the Judiciary.

Mr. HRUSKA. Mr. President, I send to the desk a bill to impose a moratorium on new and additional student transportation, and ask that it be appropriately referred.

In his message to the Congress of last Friday on the subject of school busing, the President proposed two measures:

One is designed to shift the focus from more transportation to better education.

The other would curb busing while educational opportunity would be expanded by means of the first.

The first of these would be known as the "Equal Education Opportunities Act of 1972. It would—

Require that no State or locality could deny equal educational opportunity to any person on account of race, color or national origin.

Establish criteria for determining what constitutes a denial of equal opportunity.

Establish priorities of remedies for schools that are required to desegregate, with busing to be required only as a last resort, and then only under strict limitations.

Provide for the concentration of Federal school-aid funds specifically on the areas of greatest educational need, in a way and in sufficient quantities so they can have a real and substantial impact in terms of improving the education of children from poor families.

The second measure would be known as the "Student Transportation Moratorium Act of 1972."

It is this bill which the Senator introduces at this time.

It would provide a period of time during which any future, new busing orders by the courts would not go into effect, while the Congress considered legislative approaches—such as the Equal Education Opportunities Act—to the questions raised by school desegregation cases.

This moratorium on new busing would be effective until July 1, 1973, or until the Congress passed the appropriate legislation, whichever was sooner.

Its purpose would not be to contravene rights under the 14th amendment, but simply to hold in abeyance further busing orders while the Congress investigated and considered alternative methods of securing those rights—methods that could establish a new and broader context in which the courts could decide desegregation cases, and that could render busing orders unnecessary.

Together, these two measures would provide an immediate stop to new busing in the short run, and constructive alternatives to busing in the long run—and they would give the Congress the time it needs to consider fully and fairly one of the most complex and difficult issues to confront the Nation in modern times.

It is my hope, Mr. President, that the second of these bills—the one hereby introduced—will have early hearings and action by the committee to which it is referred.

Unanimous consent is asked that its text be printed in the RECORD at this point.

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

S. 3388

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 "Student Transportation Moratorium Act of 1972."

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that:

(1) For the purpose of desegregation, many local educational agencies have been required to reorganize their school systems, to reassign students, and to engage in the extensive transportation of students.

(2) In many cases these reorganizations, with attendant increases in student transportation, have caused substantial hardship to the children thereby affected, have impinged on the educational process in which they are involved, and have required increases in student transportation often in excess of that necessary to accomplish desegregation.

(3) There is a need to establish a clear, rational, and uniform standard for determining the extent to which a local educational agency is required to reassign and transport its students in discharging its obligation under the fourteenth amendment to the United States Constitution to desegregate its schools.

(4) The Congress is presently considering legislation to establish such a standard and define that obligation.

(5) There is a substantial likelihood that, pending enactment of such legislation, many local educational agencies will be required to implement desegregation plans that impose a greater obligation than required by the fourteenth amendment and permitted by such pending legislation and that these plans will require modification in light of the legislation's requirements.

(6) Implementation of desegregation plans will in many cases require local educational agencies to expend large amounts of funds for transportation equipment, which may be utilized only temporarily, and for its operation, thus diverting those funds from improvements in educational facilities and instruction which otherwise would be provided.

(7) The modification of school schedules and student assignments resulting from implementation of desegregation plans and any subsequent modification in light of the legislation's requirements would place substantial unnecessary administrative burdens on local educational agencies and unduly disrupt the educational process.

(b) It is, therefore, the purpose of this Act to impose a moratorium on the implementation of Federal court orders that require local educational agencies to transport students and on the implementation of certain desegregation plans under Title VI of the Civil Rights Act of 1964, in order to provide Congress time to fashion such a standard, and to define such an obligation.

MORATORIUM ON ORDERS AND PLANS

SEC. 3. (a) During the period beginning with the day after the date of enactment of this Act and ending with July 1, 1973, or the date of enactment of legislation which the Congress declares to be that contemplated by Sec. 2(a)(4), whichever is earlier, the implementation of any order of a court of the United States entered during such period shall be stayed to the extent it requires, directly or indirectly, a local educational agency—

(1) to transport a student who was not being transported by such local educational agency immediately prior to the entry of such order; or

(2) to transport a student to or from a school to which or from which such student was not being transported by such local educational agency immediately prior to the entry of such order.

(b) During the period described in subsection (a) of this section, a local educational agency shall not be required to implement a desegregation plan submitted to a department or agency of the United States during such period pursuant to Title VI of the Civil Rights Act of 1964 to the extent that such plan provides for such local educational agency to carry out any action described in clauses (1) or (2) of subsection (a) of this section.

(c) Nothing in this Act shall prohibit an educational agency from proposing, adopting, requiring, or implementing any desegregation plan, otherwise lawful, that exceeds the limitations specified in subsection (a) of this section, nor shall any court of the United States or department or agency of the Federal Government be prohibited from approving implementation of a plan that exceeds the limitations specified in subsection (a) of this section if the plan is voluntarily proposed by the appropriate educational agency.

SEC. 4. For purposes of this Act—

(a) The term "desegregation" means desegregation as defined by Section 401(b) of the Civil Rights Act of 1964.

(b) The term "local educational agency" means a local educational agency as defined by Section 801(f) of the Elementary and Secondary Education Act of 1965.

(c) A local educational agency shall be deemed to transport a student if it pays any part of the cost of such student's transportation, or otherwise provides such transportation.

By Mr. FULBRIGHT (by request):

S. 3389. A bill to amend section 304, title III of the International Claims Settlement Act of 1949, as amended, to provide for additional claims for payment out of the Italian Claims Fund. Referred to the Committee on Foreign Relations.

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reference a bill to amend section 304, title III of the International Claims Settlement Act of 1949, as amended, to provide for additional claims for payment out of the Italian Claims Fund.

The bill has been requested by the chairman of the Foreign Claims Settlement Commission and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Chairman of the Commission dated March 9, 1972, to the Vice President.

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

S. 3389

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 304, title III of the International Claims Settlement Act of 1949, as amended, is further amended by adding at the end thereof the following subsection:

(g)(1) Notwithstanding any other provisions of this section and upon payment of all claims in full as authorized under subsections (a), (b) and (c) of this section, the Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amount of claims owned by persons who were nationals of the United States on August 9, 1955, which arose out of the war in which Italy was engaged from June 10, 1940, to September 15, 1947, and with respect to which provision was not made in the treaty of peace

with Italy: *Provided,* That no awards shall be made to persons who have received compensation in any amount pursuant to subsections (a), (b) and (c) of this section or under section 202 of the War Claims Act of 1948, as amended, or to persons whose claims have been denied by the Commission for reasons other than that they were not filed within the time prescribed by section (a) of section 306.

(2) Within thirty days after enactment of the subsection the Commission shall publish in the Federal Register the time when and the limit of time within which claims may be filed with the Commission, which limit shall not be more than six months after such publication.

(3) The Commission shall certify awards on claims determined pursuant to this subsection to the Secretary of the Treasury for payment out of remaining balances in the Italian Claims Fund in accordance with the provisions of section 310 of this title, after payment in full and all awards certified pursuant to subsections (a), (b) and (c) of this section.

(4) The Commission shall complete its affairs in connection with the settlement of claims under this subsection not later than one year following the time limit for filing these claims as provided under paragraph (2) of this subsection.

FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES,
Washington, D.C., March 9, 1972.

The PRESIDENT of the U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Transmitted herewith in behalf of the Executive Branch for the consideration of the 92d Congress is a draft of a proposed bill entitled "A Bill To amend section 304, Title III of the International Claims Settlement Act of 1949, as amended, to provide for additional claims for payment out of the Italian Claims Fund.

The purpose of the bill is to provide for the settlement of additional claims against the Government of Italy by so-called late nationals of the United States who were precluded from filing claims under the amendment to section 304 of the Act as added by Public Law 85–604.

To accomplish this purpose the draft bill is designed to further amend section 304 by providing for the receipt, adjudication, and payment of these claims out of unobligated balances in the Italian Claims Fund.

The amendment, which is identical to those proposals by the Commission in the 89th and 90th Congresses, would permit the payment of the residual amount remaining in the Italian Claims Fund to pay additional claims under section 304 of the Act to persons who were covered under the provisions of Public Law 85–604 but who did not formalize their claims before the Commission. In this connection, there are approximately 175 informal claims which may qualify under the late-nationals amendment to the act which claims were authorized under Public Law 85–604 but were not processed for failure to file formal claims within the period prescribed under the Act.

The Commission is in the process of completing the Italian Claims Program as authorized under Public Law 90–421. Under this program 89 awards totaling $439,488.58 have been certified to the Secretary of Treasury for payment leaving approximately $616,000 remaining in the Italian Claims Fund. One claim in the asserted amount of $216,000, is still pending settlement. Thus, a minimum of approximately $400,000 remains available for transfer into the War Claims Fund. However, under an amendment to the International Claims Settlement Act of 1949, the Secretary of the Treasury, after payment in full of all awards made pursuant to the Italian Claims Program which was reopened and extended by Public Law 90–421, (83 Stat. 420) is directed to transfer the unobligated balance in the Italian Claims Fund into the War Claims Fund, created by Section 13 of the War Claims Act of 1948, as amended.

A review of the claim situation at present time, however, would suggest that better use of the remaining Italian money could be made by processing and paying those claims which were not formalized under the original provisions of the Public Law 85–604 amendment to Title III of the Act.

This conclusion is based upon the fact that all available claimants under the previous Italian programs have been paid in the full amount of their awards. Moreover, claimants under the General War Damage Program under Title II of the War Claims Act of 1948, as amended whose claims arose in the same general area of Italian military activities during World War II received payment in full on awards up to $10,000. Awards, if any, which exceeded such amount were paid $10,000 plus 61.3% of the balance in excess of that amount. The Commission understands that a further prorated payment on these awards will be made within the near future by the Treasury Department.

On the overall picture, this leaves uncompensated only those claims which were provided for under the Public Law 85–604 amendment but were never determined for the reason that formal claims were not filed. The Commission exercised its equitable jurisdiction and accepted claims for formal adjudication which had been informally filed on or before May 31, 1960, the completion date of the Italian Program under the amendment provided such claims were otherwise qualified under section 304 of Title III of the International Claims Settlement Act of 1949, as amended by Section 2 of Public Law 85–604, approved August 8, 1958. Those claims which were not filed prior to May 31, 1960, would be provided for under the proposed amendment.

Under the provisions of section 304 of Title III of the International Claims Settlement Act of 1949 (Public Law 84–285, approved August 9, 1955), the Commission was required to receive and determine claims of nationals of the United States against the Government of Italy for certain losses arising out of the war in which Italy was engaged from June 10, 1940, to September 15, 1947, in accordance with applicable substantive law, including international law.

In deciding claims under Section 304 of the Act prior to the 1958 amendment, the Commission held that under applicable principles of international law, the property which was the basis of claim must have been owned by a national of the United States on the date that the loss of damage occurred and that claims arising therefrom must have been continuously owned by a national or nationals of the United States. The deadline for filing these claims was October 1, 1956, and the claims program was completed on August 9, 1959, in accordance with time limitations under the statute.

Section 2 of Public Law 85–604, approved August 8, 1958, amended section 304 of the Act by authorizing and directing the Commission to determine, after all awards in the principal amounts had been paid in full from the Italian Claims Fund, the validity and amount of any claim by any person who was a citizen of the United States on the date of enactment of Title III (August 9, 1955), and to certify any award granted to the Secretary of Treasury for payment out of any remaining balance in the Italian Claims Fund in accordance with the provision of section 310 of the Act, notwithstanding that the period of time prescribed in section 316 for the settlement of all claims under the section may have expired. In other words the amendment did not provide for the new filing period for these claims but the Commission's jurisdiction with respect to the processing of the claims under the amendment was unlimited since there is no time limitation. Accordingly, these claims which had been filed formally on or before October 1, 1956 and had been denied on nationality grounds were considered by the Commission. Informal claims filed by persons who may have been eligible for compensation under the amendment were not accepted in the absence of language permitting the filing of new claims.

As indicated above, legislation was introduced in the 89th and 90th Congresses, authorizing the formal receipt and consideration of these claims under the Public Law 85–604 amendment. Such an amendment was in each instance recommended by the Commission with the approval of the Bureau of the Budget. However, the House Committee on Foreign Affairs in its final consideration of the measure in the 90th Congress as contained in H.R. 9063, reported the legislation without making provisions for the late national claims. The Senate restored these claims upon its consideration of the bill but the amendment covering the claims was again eliminated from the bill by the conferees. Subsequently, H.R. 9063 was approved as Public Law 90–421 by including only the late claims of persons who had the status of nationals of the United States as of the date of loss or damage. This is the program which is presently being completed by the Commission as indicated above.

It is believed that the proposed amendment would provide a more equitable distribution of the residual amount in the Italian Claims Fund after the completion of the present program in December 1971, than a transfer of the entire amount into the War Claims Fund.

In view of the reasons outlined above, the Commission recommends that favorable consideration be given to the proposed bill.

There is no objection from the standpoint of the Administration's program to the submission of this draft legislation to the 92d Congress.

Sincerely yours,
LYLE S. GARLOCK, *Chairman.*

By Mr. FULBRIGHT (by request):

S. 3390. A bill to amend the Foreign Assistance Act of 1961, and for other purposes. Referred to the Committee on Foreign Relations.

Mr. FULBRIGHT. Mr. President, by request, I introduced for appropriate reference a bill to amend the Foreign Assistance Act of 1961.

The bill has been requested by the President of the United States and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

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

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

S. 3390

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 "Foreign Assistance Act of 1972."

SEC. 2. Chapter 8 of part I of the Foreign Assistance Act of 1961, relating to international narcotics control, is amended by striking out section 481 and inserting in lieu thereof the following new sections:

"SEC. 481. International Narcotics Control—It is the sense of the Congress that effective international cooperation is necessary to put an end to the illicit production, smuggling, trafficking in, and abuse of dangerous drugs. In order to promote such cooperation, the President is authorized to conclude agreements with other countries to facilitate control of narcotic analgesics, including opium and its derivatives, other narcotic drugs and psychotropics, and other controlled substances as defined in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91-513). Notwithstanding any other provision of law, the President is authorized to furnish assistance to any country or international organization, on such terms and conditions as he may determine, for the control of the production of, processing of, smuggling of, and traffic in, narcotic and psychotropic drugs. The President shall suspend economic and military assistance furnished under this or any other Act, and shall suspend sales under the Foreign Military Sales Act and under title I of the Agricultural Trade Development and Assistance Act of 1954, with respect to any country when the President determines that the government of such country has failed to take adequate steps to prevent narcotic drugs and other controlled substances (as defined by the Comprehensive Drug Abuse Prevention and Control Act of 1970) produced or processed, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents, or from entering the United States unlawfully. Such suspension shall continue until the President determines that the government of such country has taken adequate steps to carry out the purposes of this chapter.

"SEC. 482. Authorization. To carry out the purposes of section 481, there is authorized to be appropriated to the President $42,500,000 for the fiscal year 1973, which amount is authorized to remain available until expended."

SEC. 3. Section 491 of chapter 9 of part I of the Foreign Assistance Act of 1961, relating to refugee relief assistance, is amended by striking out "1972" and inserting in lieu thereof "1973" and striking out the figure "$250,000,000" and inserting in lieu thereof "$100,000,000".

SEC. 4. Chapter 2 of part II of the Foreign Assistance Act of 1961, relating to military assistance, is amended as follows:

(a) In section 504(a), relating to authorization, strike out "$500,000,000 for the fiscal year 1972" and insert in lieu thereof "$780,000,000 for the fiscal year 1973".

(b) In section 506(a), relating to special authority, strike out "1972" each place it appears and insert in lieu thereof "1973".

(c) Section 514 is hereby repealed.

SEC. 5. Section 532 of chapter 4 of part II of the Foreign Assistance Act of 1961, relating to authorization for security supporting assistance, is amended by striking out "for the fiscal year 1972 not to exceed $618,000,000, of which not less than $50,000,000 shall be available solely for Israel" and inserting in lieu thereof "for the fiscal year 1973 not to exceed $844,000,000".

SEC. 6. The Foreign Military Sales Act is amended as follows:

(a) In section 23 of chapter 2, relating to credit sales, strike out "ten" and insert in lieu thereof "twenty".

(b) In section 31(a) of chapter 3, relating to authorization, strike out "$400,000,000 for the fiscal year 1972" and insert in lieu thereof "$527,000,000 for the fiscal year 1973".

(c) In section 31(b) of chapter 3, relating to aggregate ceiling of foreign military sales credits, strike out "$550,000,000 for the fiscal year 1972, of which amount not less than $300,000,000 shall be made available to Israel only" and inserting in lieu thereof "$629,000,000 for the fiscal year 1973".

(d) In section 33(a) of chapter 3, relating to aggregate regional ceilings, strike out "$100,000,000" and insert in lieu thereof "$150,000,000".

(e) Section 33(c) of chapter 3, relating to aggregate regional ceilings, is amended to read as follows:

"(c) The President may waive the limitations of this section if he finds that overriding requirements of the national security of the United States justify such a waiver and promptly reports such finding to the Congress in writing, together with his reasons for such findings. In any case in which the limitations of this section are waived under the preceding sentence, the report required under such sentence shall set forth, in detail, the amounts of assistance, sales, credits, guarantees, and ship loans proposed to be made in excess of the geographical limitation applicable under this section."

SEC. 7. Section 8(b) of the Act of January 12, 1971, entitled "An Act to amend the Foreign Military Sales Act, and for other purposes" (84 Stat. 2053), is amended by striking out "$185,000,000" and inserting in lieu thereof "$245,000,000".

By Mr. BEALL (for himself, Mr. JAVITS, Mr. TAFT, Mr. PACKWOOD, and Mr. SCHWEIKER):

S. 3391. A bill to provide for the continuation of programs authorized under the Older Americans Act of 1965, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. BEALL. Mr. President, today it is my pleasure to introduce legislation designed to extend and expand the programs provided for in the Older Americans Act of 1965.

I believe that America's elderly citizens deserve a great deal more attention than they have previously received. They have, through their working years, earned the right to live their retirement years in security, independence, and dignity. We owe these people a debt of gratitude for they are primarily responsible for the prosperity and the greatness that our Nation enjoys today. We have neglected them far too long and I believe that the time has come for us to take a truly meaningful step forward as we shape the legislation that will serve to extend and expand the Older Americans Act of 1965.

This legislation gives the Congress a unique opportunity to cooperate with the President, who is dedicated to the cause of helping improve the quality of life for our retired citizens, as well as a chance to overcome devisive partisanship and regional differences that so often plague the Senate. The problems of the aging are not related solely to income, race, or geographic location. Loneliness, despair, isolation, inadequate income, and alienation are to be found among the poor, the middle class, the wealthy; among the black and the white; as well as among those who reside in our cities, suburbia, or our rural areas. There are today, approximately 20 million Americans age 65 and over and it is estimated that between 2 and 3 million of these people are severely threatened with a loss of their independence. Many of these people will be destined to premature or unnecessary institutionalization and I believe that it should be one of the major objectives of this Congress to see that this is avoided. Recent studies have tended to document this situation and I would like to cite if I may just two examples:

First. A recent survey, funded by the Administration on Aging, in Nebraska concluded that elderly patients, in two out of three cases, first entered a hospital and were subsequently transferred to a nursing home. Lack of basic in-home services was determined to be the cause of 228 nursing home admissions out of 317 cases studied. It is estimated that almost 50 percent of the persons admitted to nursing homes could get by with but occasional or very limited professional attention, thus indicating that home health care and other supportive services could provide meaningful alternatives to institutionalization among the elderly.

Second. The Department of Mental Health in Erie County, N.Y., discovered that the county could save up to $10 million per year by screening and proper placement, at the appropriate levels of care, of the senior citizens in need of institutional care. In a similar study conducted in Florida, it was determined that a well structured and diversified program of community care, in-home services, et cetera, significantly contributed to the well-being of its patients, differed or nullified the need for institutionalization, as well as reducing overall cost to the public.

Mr. President, I might add, as an aside, that I recently introduced S. 3329, a bill to establish a National Institute of Health Care Delivery which would, if enacted:

> . . . be assigned the mandate to develop a policy with respect to long-term care, particularly for mentally and physically handicapped individuals and senior citizens, with special emphasis on alternatives to institutionalization, including the use of home health aids.
>
> Long term care was one of the areas of concern at the recent White House Conference on the Aging. I believe that society's experience in other areas such as mentally and physically handicapped individuals and senior citizens, with special emphasis on alternatives to institutionalization, including the use of home health aides.

The Older Americans Act of 1972 should strengthen the State agencies as well as the community institutions so as to make them more effective and more responsive to the unique and growing problems of our senior citizens. The Areawide Planning Agencies would seek to assess the need for the elderly in each community and to formulate a plan to meet these needs through a coordinated, comprehensive service delivery system. I believe that it is through the provision of additional comprehensive services that the goal of continued independence and well-being for our Nation's elderly can be met. If this bill will permit a person who otherwise would be institutionalized because of inability to perform some relatively simple functions, thus enabling him to remain in his home as an active contributing member of his family and his community, then we can truly say that this has been a successful and worthwhile program.

Mr. President, President Nixon has made a truly significant commitment to

solving the problems confronting our Nation's senior citizens. In fiscal year 1971, approximately $15 million was spent on title III of the Older Americans Act. This had risen in fiscal year 1972 to $44.7 million and I am delighted to note that the President's budget requests a total of $200 million for fiscal year 1973. One hundred million dollars of this would go to social services and the remaining $100 million, which is being requested in a budget amendment, would go to the nutritional services program which would be incorporated in title III in this bill.

In closing, Mr. President, I would like to note, however, one area of the administration's proposal about which I have considerable concern. I believe that it was the intention of Congress upon the enactment of the original legislation that the Administration on Aging would be a strong and separate entity directly answerable to the Secretary of Health, Education, and Welfare. I find it somewhat ironic that the Commissioner on Aging, who was appointed by the President of the United States and confirmed by this body should be answerable to HEW's administrator of Social and Rehabilitation Services who was appointed by the Secretary of Health, Education, and Welfare without the need of Senate confirmation. I even understand the Secretary's reluctance to reorganize his Department at a time when a sweeping overhaul may be mandated by the enactment of welfare reform legislation. But, at the same time, I do not believe that we should ask our senior citizens to "wait in line" before their advocates within the Department of Health, Education, and Welfare are given the authority, the status, and the stature needed to effectively coordinate and implement the many programs needed to come to grips with the problems confronting our senior citizens. I believe, however, that this type of structural change can be made so that we can move ahead in this vital area.

Mr. President, it is my pleasure, as the ranking Republican on the Subcommittee on Aging, to send to the desk the administration's proposal for extending and expanding the Older Americans Act and I ask unanimous consent that the text of this bill and a summary of this proposal be printed in the RECORD at this point in my remarks.

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

S. 3391

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 "Older Americans Amendments of 1972".

REVISION OF TITLE III

SEC. 2. Title III of the Older Americans Act of 1965 is amended to read as follows:

"TITLE III—GRANTS FOR STATE AND AREA PROGRAMS

"SEC. 301. It is the purpose of this title to encourage and assist State or local agencies to develop greater capacity and foster the development of coordinated service systems to serve older persons by entering into new cooperative arrangements with each other and with providers of social or nutritional services for planning for the provision of, and providing, social or nutritional services and, where necessary, to reorganize or reassign functions, in order to—

"(1) secure and maintain maximum independence and dignity in a home environment for older persons capable of self-care with appropriate supportive services and for whom economic independence is not feasible; and

"(2) remove individual and social barriers to economic and personal independence for older persons capable of self-support.

"DEFINITIONS

"SEC. 302. For purposes of this title—

"(1) The term "social services" means any of the following services which meet such standards as the Secretary may prescribe:

"(A) health, continuing education, welfare, informational, recreational, homemaker, counseling, or referral services;

"(B) transportation services where necessary to facilitate access to social or nutritional services;

"(C) services designed to encourage and assist older persons to use the facilities and services available to them;

"(D) services designed to assist older persons to obtain adequate housing; or

"(E) any other services;

if such services are necessary for the general welfare of older persons.

"(2) The term 'nutritional services' means any of the following services which meet such standards as the Secretary may prescribe:

"(A) Provision of nutritionally balanced meals for older persons served in group settings;

"(B) provision of home delivered meals fo rolder persons requiring such service because they are disabled or for other health reasons;

"(C) nutrition education services for older persons; or

"(D) any other services;

if such services are designed to meet the dietary needs of older persons.

"(3) The term 'unit of general-purpose local government' means (A) a political subdivision of the State whose authority is broad and general and is not limited to only one function or a combination of related functions, or (B) an Indian tribal organization.

"(4) The term 'coordinated system' means a system for providing social services and nutritional services in a manner designed to—

"(A) facilitate accessibility to and utilization of all social services and nutritional services provided within the geographic area served by such system by any public or private agency or organization;

"(B) make the most efficient use of social services and nutritional services in meeting the needs of older persons; and

"(c) use available resources efficiently and with a minimum of duplication.

"(5) The term 'Governor' means the Governor of the State, in the case of any of the fifty States, and, in the case of the other States, the chief executive officer thereof.

"ALLOTMENTS

"SEC. 303. (a) (1) From the sum appropriated for a fiscal year for allotments to States, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands each shall be allotted an amount equal to one-half of one per centum of such sum and each other State shall be allotted an amount equal to one per centum of such sum.

"(2) From the remainder of the sum appropriated for a fiscal year for allotments to States, each State shall be allotted an additional amount which bears the same ratio to such remainder as the number of individuals in such State who have attained age sixty-five years to the total number of individuals in all the States who have attained such age, as determined by the Secretary on the basis of the most recent satisfactory data available to him.

"(b) Whenever the Secretary determines that any amount allotted to a State for a fiscal year under this section will not be used by such State for carrying out the purpose for which the allotment was made, he may make such amount available for carrying out such purpose to one or more other States to the extent he determines such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year pursuant to the preceding sentence shall, for purposes of this title, be regarded as part of such State's allotment (as determined under the preceding provisions of this section) for such year.

"(c) The allotment of a State under this section for a fiscal year shall remain available until the close of the following fiscal year for grants to pay part of the cost (pursuant to section 306) of (1) administration of the State plan by the State agency designated pursuant to section 304(a)(1), including the preparation of State plans submitted to the Secretary under section 305, the evaluation of activities carried out under such plan, the collection of data and the carrying out of research related to the need for social or nutritional services within the State, the dissemination of information so obtained, the provision of technical assistance to public or nonprofit private agencies and organizations engaged in activities related to the problems of older persons, and the carrying out of demonstration projects of statewide significance relating to the initiation, expansion, or improvement of social or nutritional services; (2) administration of area plans by area agencies on aging designated pursuant to section 304(a)(3), including the preparation of area plans on aging consistent with section 304(c) and the evaluation of activities carried out under such plans; (3) social services provided under the State plan; and (4) nutritional services provided under the State plan.

"ORGANIZATION

"State Organization

"SEC. 304. (a) In order for a State to be eligible to participate in the program of grants to States from allotments under section 303, the Governor of the State shall, in accordance with regulations of the Secretary—

"(1) designate a State agency (hereinafter in this title referred to as "the State agency") to (A) develop the State plan to be submitted to the Secretary for approval under section 305, (B) administer the State plan within such State, (C) be primarily responsible for the coordination of all State activities related to the purposes of this Act, and (D) review and comment on, at the request of any Federal department or agency, any application from any agency or organization within such State to such Federal department or agency for assistance related to meeting the needs of older persons;

"(2) divide the entire State into distinct areas (hereinafter in this title referred to as "planning and service areas"), after considering the incidence of the need for social or nutritional services, the distribution of resources available to provide such services, the boundaries of existing areas within the State which were drawn for the planning or administration of social services programs, the location of units of general purpose local government within the State, and any other relevant factors;

"(3) determine for which planning and service areas an area plan will be developed, in accordance with subsection (c) of this section, and for each such area designate, after consideration of the views offered by the unit or units of general purpose local gov-

ernment in such area a public or nonprofit private agency or organization as the area agency on aging for such area; and

"(4) provide assurances satisfactory to the Secretary that the State agency will take into account, in connection with matters of general policy arising in the development and administration of the State plan for any fiscal year, the views of recipients of social or nutritional services provided under such plan.

"Area Organization

"(b) In order to be eligible for designation under subsection (a), an area agency on aging—

"(1) must be—

"(A) an agency of a unit of general purpose local government,

"(B) an agency designated to act on behalf of a combination of such units, or

"(C) a public or nonprofit private agency or organization which can engage in the planning or provision of a broad range of social or nutritional services within a planning and service area, and

"(2) must provide assurance, found adequate by the Governor, that it will have the ability to develop an area plan and to carry out, directly or through contractual or other arrangements, a program pursuant to that plan within the planning and service area.

In designating an area agency on aging, the Governor shall give preference to an agency of a unit of general purpose local government, unless he finds that no such agency within the planning and service area will have the capacity to carry out the area plan.

"Area Plans

"(c) In order to be approved by the State agency, an area plan for a planning and service area shall be developed by the area agency on aging designated with respect to such area under subsection (a) and shall—

"(1) provide for the establishment of a coordinated system for the delivery of social services and nutritional services within the planning and service area covered by the plan, including determining the need for social services and nutritional services in such area, evaluating the effectiveness of the use of resources in meeting such need, and entering into agreements with providers of social or nutritional services in such area for the provision of such services to meet such need;

"(2) in accordance with criteria, established by the Secretary by regulation, relating to priorities, provide for the initiation, expansion, or improvement of social or nutritional services in the planning and service area covered by the area plan, including planning on a continuing basis with providers of social or nutritional services in such area to insure the provision, when financial assistance therefor under this title is no longer available, of such services without such assistance; and

"(3) provide that the area agency on aging will—

"(A) conduct periodic evaluations of activities carried out pursuant to the area plan;

"(B) render appropriate technical assistance to providers of social or nutritional services in the planning and service area covered by the area plan; and

"(C) take into account, in connection with matters of general policy arising in the development and administration of the area plan, the views of recipients of services under such plan.

"STATE PLANS

"SEC. 305. (a) In order for a State to be eligible for grants for a fiscal year from its allotment under section 303, it shall submit to the Secretary a State plan for such year which meets such criteria as the Secretary may prescribe by regulation and which—

"(1) provides that the State agency will evaluate the need for social services and nutritional services within the State and determine the extent to which existing public or private programs meet such need;

"(2) provides for the use of such methods of administration (including methods relating to the establishment and maintenance of personal standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of an individual employed in accordance with such methods) as are necessary for the proper and efficient administration of the plan;

"(3) provides that the State agency will make such reports, in such form, and containing such information, as the Secretary may from time to time require, and comply with such requirements as the Secretary may impose to assure the correctness of such reports;

"(4) provides that the State agency will conduct periodic evaluations of activities and projects carried out under the State plan;

"(5) establishes objectives, consistent with the purposes of this title, toward which activities under the plan will be directed, identifies obstacles to the attainment of those objectives, and indicates how it proposes to overcome those obstacles;

"(6) provides, in any case in which an individual is able to participate in the cost of social or nutritional services provided to him under the State plan, for such participation (in accordance with regulations prescribed by the Secretary in the light of such ability);

"(7) provides that no social or nutritional service will be provided by the State agency or an area agency on aging, except where, in the judgment of the State agency, (A) provision of such service by the State agency or an area agency on aging is necessary to assure an adequate supply of such service and (B) payment for such service is not available from other sources;

"(8) provides that each area agency on aging designated pursuant to section 304(a)(3) will develop and submit to the State agency for approval an area plan which complies with section 304(c).

"(b) The Secretary shall approve any State plan which he finds fulfills the requirements of subsection (a) of this section.

"(c) The Secretary shall not finally disapprove any State plan, or any modification thereof, or make a final determination that a State is ineligible under section 304, without first affording the State reasonable notice and opportunity for a hearing.

"(d) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency, finds that—

"(1) the State is no longer eligible under section 304,

"(2) the State plan has been so changed that it no longer complies with the provisions of subsection (a), or

"(3) in the administration of the plan there is a failure to comply substantially with any such provision,

the Secretary shall notify such State agency that no further payments from its allotment under section 303 will be made to the State (or, in his decretion, that further payments to the State will be limited to projects under or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments shall be made to such State from its allotment under this title (or payments shall be limited to projects under or portions of the State plan not affected by such failure).

"(e) A State which is dissatisfied with a final action of the Secretary under subsection (b), (c), or (d) may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

"PAYMENTS

"SEC. 306. (a) From a State's allotment under section 303 for a fiscal year—

"(1) an amount equal to 8 per centum thereof (but not less than $50,000 in the case of the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, or $100,000 in the case of any other State) shall be available only for paying such percentage as the State agency determines, but not more than 75 per centum, of the cost of administration of the State plan; and

"(2) such amount as the State agency determines, but not more than 8 per centum thereof, shall be available for paying such percentage as such agency determines, but not more than 75 per centum, of the cost of administration of area plans.

The remainder of such allotment shall be available to such State only for paying

"(3) such percentage as the Secretary determines, but not more than 90 per centum, of the cost of social or nutritional services provided under a program or project approved by the area agency on aging in a planning and service area for which there is an area plan approved by the State agency, and

"(4) in the case of social or nutritional services provided under a program or project approved by the State agency under the State plan in a planning and service area for which there is no area plan approved by the State agency, such percentage as such agency determines, but not more than 75 per centum of the cost of such services for the first year they are so provided, not more than 60 per centum of such cost for the second year they are so provided, and not more than 50 per centum of the cost of such services for the third year they are so provided,

except that not more than 10 per centum of an allotment to a State under section 303 for a fiscal year shall be available for payments for social or nutritional services provided in a planning and service area for which there is no area plan approved by the State agency, and except that not more than 65 per centum nor less than 35 per centum of such an allotment shall be available for payments for nutritional services provided under the State plan.

"(b) Payments of grants or contracts under this title may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

From the portion of a State's allotment for a fiscal year which is available pursuant to subsection (a) (1) the Secretary may advance to a State which does not have a State plan approved under section 305 such amounts as he deems appropriate for the purpose of assisting such State in developing a State plan.

"(c) No allotment to a State under this title shall be available for making payments with respect to any program or project for providing nutritional or social services under a State plan approved under section 305 after payments have been made from such allotments with respect to such program or project for a period of time equal to three calendar years. No allotment to a State under this title shall be available for making payments with respect to the administration of an area plan approved under section 305(a)(8) after payments have been made from such allotments with respect to the administration of such plan for a period of time equal to three calendar years.

"(d) Not less than 25 per centum of the non-Federal share (pursuant to subsection (a) of this section) of the total expenditures under the State plan shall be met from funds from State or local public sources.

"(e) A State's allotment under section 303 for a fiscal year shall be reduced by the percentage (if any) by which its expenditures for such year from State sources under its State plan approved under section 305 are less than its expenditures from such sources for the preceding fiscal year.

"MODEL PROJECTS

"SEC. 307. The Secretary may, after consultation with the State agency, or the Governor of the State where there is no State agency, make grants to or contracts with any public or nonprofit private agency or organization within such State for paying part or all of the cost of developing or operating statewide, regional, metropolitan area, county, city or community model projects which will expand or improve social or nutritional services or otherwise promote the well being of older persons.

"AVAILABILITY OF SURPLUS COMMODITIES

"SEC. 308. (a) Agricultural commodities and products purchased by the Secretary of Agriculture under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) may be donated to public or nonprofit private agencies or organizations to be used for providing nutritional services in accordance with the provisions of this title.

"(b) The Commodity Credit Corporation may dispose of food commodities under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) by donating them to public or nonprofit private agencies or organizations to be used for providing nutritional services in accordance with the provisions of this title.

"(c) Dairy products purchased by the Secretary of Agriculture under section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a–1) may be used to meet the requirements of programs providing nutritional services in accordance with the provisions of this title."

REPEAL OF LIMITATION ON APPROPRIATIONS AUTHORIZATION

SEC. 3. Title VII of the Older Americans Act of 1965 is amended by striking out section 703 thereof and redesignating sections 704 and 705 as sections 703 and 704, respectively.

EVALUATION

SEC. 4. The section redesignated as section 703 of the Older Americans Act of 1965 by section 3 of this Act is amended by striking out "or VI or section 703" and inserting in lieu thereof ", IV, or V".

REPEAL OF STUDY AUTHORIZATION

SEC. 5. Title V of the Older Americans Act of 1965 is amended by striking out section 503 thereof.

CONFORMING AMENDMENTS

SEC. 6. The Older Americans Act of 1965 is further amended by striking out—

(1) "303" in section 402(c) and inserting in lieu thereof "304";

(2) "303" in section 502(c) and inserting in lieu thereof "304";

(3) "303" in the first sentence of section 601(a) and inserting in lieu thereof "304";

(4) "303" in section 601(c) and inserting in lieu thereof "304";

(5) "303" in section 612(a)(2)(A) and inserting in lieu thereof "304"; and

(6) "303" in section 612(a)(3)(C) and inserting in lieu thereof "304".

EFFECTIVE DATE

SEC. 7. The amendments made by this Act shall become effective with respect to appropriations for fiscal years beginning after June 30, 1972.

SUMMARY OF THE PROPOSED "OLDER AMERICANS AMENDMENTS OF 1972"

Section 1 provides the short title of the bill: the "Older Americans Amendments of 1972".

Section 2 of the bill would substitute a revised title III of the Older Americans Act of 1965 for the existing title.

The revised section 301 of the Older Americans Act of 1965 would contain the statement of purpose for title III. The program authorized by the title would encourage and assist State or local agencies to develop greater capacity to serve older persons by entering into new cooperative arrangements with each other and with providers of social or nutritional services for planning for, and providing, services to older persons in order to enable them to maintain their independence and dignity. In administering this program, the Department would take such steps as may be necessary to avoid duplication between the assistance provided under this title and assistance provided under title VI of the Older Americans Act (administered by Action).

The revised section 302 of the Older Americans Act of 1965 would define several key terms, such as "social services" and "nutritional services".

The revised section 303(a) of the Older Americans Act of 1965 would provide the formula for allotting the funds appropriated under section 301 for grants to States which is currently provided by section 302 of the Older Americans Act.

The revised section 303(b) of the Older Americans Act of 1965 would provide for the reallotment of funds not used by a State for carrying out the purpose for which allocated.

The revised section 303(c) of the Older Americans Act of 1965 specifies the purposes for which an allotment may be used.

The revised section 304 of the Older Americans Act of 1965 would describe the administrative organization which a State must develop in order to be eligible to receive funds under title III. Subsection (a) would provide that it is the responsibility of the Governor to designate a State agency to develop a State plan, to divide the State into distinct areas for planning and providing social and nutritional services, to determine for which areas an area plan will be developed, to designate area agencies on aging for those areas, and to provide assurances that the State agency will take into account, in matters of general policy, the views of recipients of services under the State plan.

The revised section 304(b) of the Older Americans Act of 1965 would specify the entities eligible to be designated area agencies on aging.

The revised section 304(c) of the Older Americans Act of 1965 would specify the provisions which must be included in an area plan to be approved by the State agency. Among other things, the plan must provide for the establishment of a coordinated system for the delivery of social or nutritional services and for the initiation, expansion, or improvement of social or nutritional services.

The revised section 305(a) of the Older Americans Act of 1965 would prescribe the requirements applicable to a State plan. Among other things, an approvable plan must (1) provide that the State agency will determine the need for social and nutritional services within the State, (2) provide that the State agency will make reports required by the Secretary, (3) provide that the State agency will conduct periodic evaluations of the activities carried out under the State plan, (4) establish objectives toward which such activities will be directed, identify obstacles to the attainment of those objectives, and indicate how it proposes to overcome those obstacles, (5) provide that where an individual is able to participate in the cost of services provided him under the State plan, such participation will be in accordance with regulations of the Secretary, and (6) provide that the State agency will review and approve area plans which meet the criteria of section 304(c).

Subsections (b), (c), (d), and (e) of section 305 of the Older Americans Act of 1965, as it would be amended by section 2 of this bill, would provide the procedures to be followed by the Secretary when approving or disapproving a State plan, and the appeal procedures to be followed when a State plan has been disapproved.

The revised section 306(a) of the Older Americans Act of 1965 specifies the portion of a State's allotment which must be used for the various activities under the State plan, and the matching rate for each of those activities. The Federal matching rate for social and nutritional services provided under an area plan would be not more than 90 percent of the cost, while in areas without an area plan the rate would decline from 75 percent for the first year of a project to not more than 50 percent the third year. Between 35 percent and 65 percent of a State's allotment must be used to provide nutritional services. The Federal matching rate for all planning and administrative activities would be not more than 75 percent of the cost, and each State would have available 8 percent of its allotment, but not less than $100,000 (or $50,000 in the case of the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands) to be used only for State planning and administration. Finally, not more than 10 percent of a State's allotment may be spent for services in areas without an area plan, and not more than 8 percent of its allotment could be spent for area administrative activities.

The revised section 306(b) of the Older Americans Act of 1965 provides for payments to the State and allows the Secretary to advance funds for State planning to States without an approved State plan.

The revised section 306(c) of the Older Americans Act of 1965 would limit to three years the period of time during which the cost of a project or program for providing a social or nutritional service or the cost of administration of an area plan may be met in part from a State's allotment under section 303.

The revised section 306(d) of the Older Americans Act of 1965 would require that not less than 25 percent of the non-Federal share of expenditures under the State plan must be met from public sources.

The revised section 306(e) of the Older Americans Act of 1965 would provide that if for any fiscal year a State reduces its expenditures from State sources under the State plan from the preceding fiscal year its allotment under section 303 would be reduced by a percent equal to the percent of the State reduction.

The revised section 307 of the Older Americans Act of 1965 would give the Secretary

authority to make grants to or contracts with any public or nonprofit private agency or organization for paying part or all of the cost of developing or operating statewide, regional, metropolitan area, county, city, or community model projects which will promote the well being of older persons.

The revised section 308 of the Older Americans Act authorizes surplus food commodities to be donated to public or nonprofit private agencies or organizations to be used for providing nutritional services under title III.

Section 3 of the bill would amend title VII of the Older Americans Act of 1965 by deleting section 703, which had imposed a limitation on the authorization of appropriations for titles IV and V.

Section 4 of the bill would amend section 704 of the Older Americans Act of 1965 (relating to funds for evaluation) to make a conforming change.

Section 5 of the bill would amend title V of the Older Americans Act of 1965 by deleting section 503. The study authorized by that section has been completed.

Section 6 of the bill would amend the various sections of the Act to conform to the restructuring of title III.

Section 7 of the bill would make the provisions of the bill effective with respect to appropriations for fiscal year 1973.

By Mr. CRANSTON (for himself, Mr. DOMINICK, Mr. EAGLETON, Mr. WILLIAMS, Mr. GRAVEL, Mr. MANSFIELD, Mr. STEVENS, and Mr. TUNNEY):

S. 3392. A bill to amend the National Science Foundation Act of 1950 so as to provide for a program relating to earthquakes. Referred to the Committee on Commerce.

EARTHQUAKE ENGINEERING BILL

Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to establish a comprehensive earthquake engineering research program, to be administered by the National Science Foundation. I am joined in bipartisan cosponsorship of this bill by the chairman of the Labor and Public Welfare Committee (Mr. WILLIAMS), the ranking minority member of the Special NSF Subcommittee (Mr. DOMINICK) and another subcommittee member (Mr. EAGLETON), as well as the Senators from Alaska (Mr. GRAVEL and Mr. STEVENS), the distinguished majority leader (Mr. MANSFIELD) and my colleague from California (Mr. TUNNEY).

Earthquakes are not a regional problem. Every State in the Union has at some time suffered earthquake damage. Twenty States have suffered major damage, and, according to scientific projections, are likely to suffer major earthquake damage again. Besides California and Alaska, which everyone is aware of, these States are South Carolina, Nevada, Kentucky, Washington, Illinois, New York, Idaho, Massachusetts, New Hampshire, Tennessee, Mississippi, Montana, Wyoming, Utah, Maine, Indiana, Missouri, and Arkansas.

The most severe earthquake to occur in the United States was centered in New Madrid, Mo., in 1812. No loss of life or damage to structures occurred because the area was unsettled at the time. However, more recent earthquakes have struck populated areas leaving death, injury, and property damage in their wake. The 1906 San Francisco earthquake resulted in devastating fires which destroyed much of the city. An estimated 700 persons died in the earthquake and fire. The 1964 Alaska earthquake caused extensive damage, virtually destroying the port area of Seward, Alaska. Docks and warehouse facilities disappeared, transportation facilities were destroyed, and oil tanks were set afire.

In 1971, a medium-sized earthquake hit the San Fernando Valley in California. Due to the dense population and extensive development of that area, the earthquake reached catastrophic proportions. Sixty-four persons lost their lives, many more were injured, and between $500 million and $1 billion in property damage occurred. Most of the lives were lost because of collapsing structures.

The San Fernando earthquake registered only 6.6 on the Richter Scale—the 1906 San Francisco earthquake registered 8.2; the 1964 Alaska earthquake, 8.4. An earthquake measuring 8.0 on the Richter scale releases almost 1,000 times the amount of energy as an earthquake registering 6.0.

If another earthquake of the magnitude of the 1906 San Francisco quake were to strike California, 500 times the energy of the San Fernando quake would be released. A 1968 report prepared by a group of the Nation's top earthquake experts for the President's Office of Science and Technology, estimates that an earthquake registering 8.2 in California today could cause up to $50 billion damage and take thousands of lives. There is a 75 percent chance that an earthquake of that magnitude will occur along the San Andreas fault in California within the next 30 years, according to testimony by the former director of the California Earthquake Office before the Senate Public Works Committee last year. An earthquake of magnitude 7.0 or greater is likely to occur at least once a decade, according to an earthquake engineering report prepared for the National Science Foundation in 1969.

During an earthquake, every structure or object in contact with the earth, every piece of equipment in contact with a structure, even the ground that supports the structure, all experience stresses and strains. Whether the structure collapses will depend largely on the original engineering design.

It is the objective of earthquake engineering to develop structural designs and code standards to avert massive death and destruction during an earthquake. The advantages of such construction designs were demonstrated during the 1923 Tokyo earthquake. Some 74,000 persons died, 54 percent of all brick buildings collapsed, and 10 percent of the few reinforced concrete structures collapsed. Frank Lloyd Wright's Imperial Hotel was the only large building that offered safety because of its revolutionary, floating cantilever construction.

Current minimum construction standards are determined throughout the United States by city and county building codes. The Uniform Building Code published by the International Conference of Building Officials and based on testing done by the Structural Engineers Association of California, is preeminent in the field. However, the San Fernando earthquake has raised serious questions about the adequacy of the code provisions. Earthquake engineers call the San Fernando earthquake the first comprehensive practical test of American earthquake codes. That earthquake tragically demonstrated the inadequacy of existing building codes.

The $24 million Olive View Medical Center was dedicated in November 1970. Three months later, the second floor of the psychiatric center collapsed to the ground in the earthquake; the facility is a total loss. The San Fernando earthquake caused the collapse of a freeway interchange under construction at the time of the quake. It was designed in late 1968.

Many other buildings, bridges, and utility structures which sustained serious damage under the earthquake stress had been built to meet current code requirements. Clearly, we must reevaluate the assumption on which the codes are based. A critical and comprehensive review is needed. Earthquake engineering research, which will use new methods, such as computer analysis of structural reaction to earthquakes, will enable earthquake resistant structures to be built. The new knowledge gained from a program in earthquake engineering research will be translated into revised building codes.

Several major Government studies over the past decade have called for a greater investment in earthquake engineering research. The National Academy of Engineering issued an "Earthquake Engineering Research" report in 1969 calling for a program of safe and economical seismic design criteria, new methods of design, and guidelines for decreasing potential earthquake disaster. The National Academy recommended a 10- to 20-year research effort in earthquake engineering to compensate for past under-investment in the field.

One major earthquake in the Los Angeles area could cause $50 billion in damage, according to the National Academy of Engineering. Dr. George Housner, a professor at California Institute of Technology and chairman of the Committee on Earthquake Engineering Research of the National Academy of Engineering, states that the Academy's proposed 10-year research program would produce data that could reduce losses to 10 percent in an earthquake of the magnitude of the San Fernando earthquake. Dr. Ray Clough, professor of structural engineering at Berkeley, estimates that the cost of building multistory office buildings to withstand a quake of the San Fernando magnitude would be only 1.5 to 2 percent higher. The increase would be less for hospitals whose structural cost is a smaller portion of the total cost of the building.

The program in earthquake engineering which my bill will launch provides for research along the lines of that proposed by the National Academy of Engineering. The research will be funded for the first 3 years at a level of $10 million each year. After 3 years, the program

will be reevaluated to determine at what level the program should be further funded, if at all.

The proposed program is similar to one recommended by the National Science Foundation. In preparing the bill, I have worked closely with the National Science Foundation and with Dr. George Housner.

The bill seeks to improve earthquake engineering knowledge using known and new techniques. By amending the National Science Foundation Act of 1950, the bill directs the National Science Foundation to support a program to advance earthquake engineering research; to develop accurate and reliable methods of structural analysis of a building's resistance to ground shaking during earthquakes; to develop improved minimum construction standards for resistance of structures to the ground shaking during quakes; and to develop improved methods of making maps to indicate the degree of earthquake hazard to be expected for a variety of locations with a variety of soil conditions.

The National Science Foundation would administer the earthquake engineering research program. The NSF has directed most earthquake engineering research in the past, and has done an excellent job. Earthquake engineers I spoke with feel the National Science Foundation should continue to administer earthquake engineering research.

The ability to build structures capable of withstanding major earthquakes will greatly reduce loss of life, injury, and property damage which earthquakes are now able to cause. To alleviate these disastrous losses, I am now introducing this legislation.

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

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

S. 3392

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of the National Science Foundation Act of 1950 is amended (1) by deleting the word "and" at the end of paragraph (6); (2) by deleting the period at the end of paragraph (7) thereof and inserting in lieu thereof a semicolon and the word "and"; and (3) by adding immediately after paragraph (7) thereof the following new paragraph:

"(8) (A) to establish and support a program which shall—

"(i) advance earthquake engineering research;

"(ii) develop more accurate and reliable methods of earthquake resistant analysis and design for all types of structures and for a variety of ground conditions;

"(iii) develop improved minimum criteria of earthquake resistant construction, measuring the cost of protection against the benefit of damage and loss of life prevented, for all types of structures and for a variety of ground conditions, with priority given to dams, hospitals, schools, public utility and public safety structures, high-occupancy buildings, buildings necessary to emergency operations, and other structures especially needed in time of disaster; and

"(iv) develop improved methods, based upon the seismological characteristics of the area, of assessing the earthquake risk at all types of locations in populated areas of high seismic risk, and of establishing land use priorities designed to reduce the hazards from earthquake.

"(B) Such program established pursuant to subparagraph (A) shall include—

"(i) measurement and analysis of ground motion during earthquakes;

"(ii) analysis of soil behavior and influence of local geologic features during earthquakes;

"(iii) measurement and analysis of dynamic properties and behavior of structures during earthquakes;

"(iv) development of instruments useful in such program;

"(v) laboratory and field experiments, analytical techniques and mathematical and computerized methods of analysis which support such program;

"(vi) analysis of tidal wave action and development of appropriate counter measures;

"(vii) development of a sufficient number of trained personnel to support such program;

"(viii) development of effective means to disseminate the methods of structural analysis and design, criteria of construction, and methods of assessing earthquake risk maps developed pursuant to such program to public and private groups engaged in engineering construction, architecture, construction planning and land use planning; and

"(ix) post-earthquake studies and investigations of the effects of earthquakes which are relevant to engineering design, earthquakes which are relevant to engineering design, earthquake engineering research or any other purposes consistent with such program.

"(C) The Foundation is directed to report annually to the President and the Congress on the implementation of the program provided for in this paragraph. The Foundation is directed to make the methods of structural analysis and design, the criteria of construction, and the methods of assessing earthquake risk maps developed pursuant to such program available to the Governors in States in seismic risk areas, the General Services Administration, the Department of Housing and Urban Development, the National Bureau of Standards, the Department of Defense, the Bureau of Reclamation, the Atomic Energy Commission, the National Oceanic and Atmospheric Administration, the Forest Products Laboratory, Geological Survey, and other government and private organizations which have an interest in construction and land use planning."

SEC. 2. Section 16 of the National Science Foundation Act of 1950 is amended by adding at the end thereof the following:

"(c) To enable the Foundation to carry out its powers and duties under section 3(a)(8) of this Act, there is authorized to be appropriated to the Foundation for the fiscal year ending June 30, 1973, the sum of $10,000,000; for the fiscal year ending June 30, 1974, the sum of $10,000,000; and for the fiscal year ending June 30, 1975, the sum of $10,000,000."

Mr. STEVENS. Mr. President, I am pleased to be able to cosponsor the bill introduced by the distinguished Senator from California (Mr. CRANSTON), which would amend the National Foundation Act of 1950 to provide for a program relating to earthquake engineering.

Mr. President, this subject of earthquakes and other natural disasters is of great importance to my home State of Alaska. On Good Friday, March 27, 1964, Alaska suffered the most severe earthquake ever recorded in North America. The earthquake epicenter was near the head of Prince William Sound, only about 90 miles southeast of Anchorage, the largest city in the State. It was of great magnitude—between 8.3 and 8.6 on the Richter scale. Its duration was between 3 and 4 minutes. All in all, the quake was an extraordinary event felt over 500,000 square miles. More importantly, the quake caused great human loss. Amidst the havoc of the quake, 130 human beings lost their lives and the damage to manmade structures was over $3 billion. Indeed, the devastation to Anchorage was so great that a large section of the downtown area was virtually leveled.

Mr. President, the magazine News Report published by the National Academy of Sciences only recently had an article termed "Lessons of the Alaska Quake Biology Sudden Change in Land Use." The article discusses the biological and ecological changes which occurred from the great Alaska earthquake of 1964. It is clear from the article that the effects of any earthquake go far beyond the physical changes which are visable soon after the disaster. Changes in land forms and geography have great effects on the ecological systems and interrelationships of an area. Consequently, transformations occur in the life systems of fish and wildlife, both important sources of economic livelihood for Alaskans and the citizens of many other States.

In addition, an article in the Weekly News Letter from the National Oceanic and Atmospheric Administration summarizes its program of earthquake research.

I ask unanimous consent that the articles be printed in their entirety in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. STEVENS. Mr. President, unfortunately, the natural disasters that plague Alaska are not restricted to earthquakes. Floods are also the source of much human and property loss. In 1967 floodwaters inundated the city of Fairbanks, causing a loss of seven lives and millions of dollars of property. Floods periodically occur in the Tanana River Basin where the towns of Minto and Tanana lie and in the Yukon Flat area near the towns of Stevens Village and Beaver.

Because of the devastating effects that these natural disasters have upon Alaska and other States, I enthusiastically support legislation which will alleviate these hardships. I recently cosponsored S. 2358, introduced by the distinguished Senator from Indiana (Mr. BAYH) which would amend the Disaster Relief Act of 1970 to extend the act and provide increased compensation for the victims of great natural disasters. I have also cosponsored S. 3173, introduced by the distinguished Senator from California (Mr. CRANSTON) which would provide for a 5-year seismic pilot project along the San Andreas fault in California. S. 3173 is a most worthy bill, which, if enacted, could provide scientists with the information and knowledge to predict earthquakes anywhere in the country. In addition, the program will include research on an early warning system to alert the public to safety precautions long before an earthquake occurs.

Mr. President, I recently received a letter from the Geophysical Institute of the

University of Alaska. The director of the institute, Mr. Keith B. Mather, has clearly and ably pointed out the need for other earthquake studies similar to the one in the San Andreas fault authorized by S. 3173. It is my hope as a cosponor of S. 3173 that if the pilot project study of the San Andreas fault reveals the kinds of data that will lead to the prediction of earthquakes, that other studies will be authorized in other areas of the country, including Alaska.

Mr. President, I ask unanimous consent that Mr. Mather's letter be printed in its entirety in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. STEVENS. Mr. President, today, I am also extremely pleased to cosponsor this bill amending the National Science Foundation Act of 1950. The bill would provide for a research program conducted by the National Science Foundation relating to earthquake engineering. More accurate methods for analyzing earthquake resistance and construction design would be developed. In addition, improved minimum criteria for earthquake resistance construction would be established for all types of structures, with priority given to public and high occupancy buildings. Research would also be conducted in developing appropriate countermeasures to the threat posed by tsunamis, ocean tidal waves.

Mr. President, more reliable methods in structural analysis are definitely needed for all types of structures. As a result of the disastrous 1964 Alaska earthquake, many of the buildings in the very heart of downtown Anchorage slid down an incline. Because of ground instability, it has only recently been possible to once again build upon this area. Consequently, the economic growth of Anchorage has been stunted for 6 to 7 years. At present, there is insufficient technology for the design of buildings in such slide areas to insure that newly constructed buildings will be able to withstand another earthquake. Thus, I believe that this bill is particularly important, because it will help to develop the methods which will allow Anchorage, Alaska's largest city, to rebuild much of its center core. On a national scale, this bill should develop the technology for the prevention of any such large-scale destruction again.

Mr. President, it is my specific desire, as a cosponsor of this legislation, that it would encourage the Federal Government to provide for the minimum criteria for the structural engineering of housing and buildings financed in whole or in part by Federal funds. In addition, I would hope that this legislation would encourage the Federal Government to work closely with State and local governments to develop buildings and housing codes with minimum structural criteria for all buildings in earthquake-prone areas.

EXHIBIT 1

LESSONS OF THE ALASKA QUAKE: BIOLOGY AND SUDDEN CHANGE IN LAND USE

Shortly after the Alaska earthquake of March 27, 1964, the White House sought the aid of the National Academy of Sciences in bringing together and distilling as much as could be learned from that event. The earthquake was of great magnitude (between 8.3 and 8.6 on the Richter Scale); it was of long duration (between 3 and 4 minutes); its measured crustal deformation exceeded that from any previously known earthquake. It was an extraordinary event, whose shock was felt over 500,000 square miles.

The Alaska earthquake study—being carried out in the National Research Council Division of Earth Sciences—was charted as a long one, an effort to appraise scientific research on the earthquake, to encourage filling of the gaps, and to establish a comprehensive record of what happened. The result has been the unfolding of a regional environmental portrait. For of a sudden, the Alaskan geography changed and bits of the relationships of earth and ecosystems were exposed. When the landforms change, life changes.

"Awareness of ecological interrelationships becomes clearer and more acute after any cataclysmic disturbance in nature, especially when attempts are made to measure and evaluate effects of the disturbance." Gerald W. Prescott of the University of Montana observes in the newest volume of the published series by the NRC Committee on the Alaska Earthquake. "When whole populations of many species of organisms, including man, are dislocated, many effects may engender conditions that can contribute to the elimination of certain species.

"In nature, ecological adjustments and niches are developed over great reaches of time, which explains the intricate involvement of ecological factors. When one factor in this balance is disturbed or removed, a ramifying and progressive series of interactions is set in motion. When several or many factors are simultaneously disturbed or rearranged, as they are in an earthquake, fire, flood, or volcanic eruption, the effects are so far-reaching that they can scarcely be evaluated."

This latest report, *The Great Alaska Earthquake of 1964: Biology* (see "New Publications," p. 11), follows a preliminary summary report and two more detailed volumes, on hydrology and on human ecology. Additional volumes in the series are expected to be completed within the next 12 months.

Ecology, despite its currency as political terminology, remains one of the more perplexing areas of scientific study. The relationships among life forms and environment are not clear and are difficult to identify, save perhaps under stress. The 1964 Alaska earthquake—in a region where there had been a good deal of prior science although far from enough to establish fully satisfactory benchmarks for measuring change—was stress on a grand scale; this point underlies the research papers and observations of the state of research that comprise the *Biology* volume.

CHANGES IN LAND AND WATER

The earthquake epicenter was on the north side of Prince William Sound, southeast of Anchorage. Along much of Alaska's south-central coast there were vertical and horizontal land displacements. Tsunamis generated by the earthquake and by local landslides into the sea swept ashore. Within four minutes, nature's allocation of land and water changed in major ways, and the effects continue to be felt.

George W. Harry, Jr., chairman of the NBC committee's Panel on Biology, points out in the volume's summary chapter:

"Intertidal areas that had been covered with the salt water of incoming tides for many centuries were suddenly raised far above the reach of the highest tides, and the exposed complex communities of marine plants and animals were almost completely obliterated. In areas of subsidence, terrestrial zones abruptly became intertidal zones. Walls of water that surged into estuaries scoured out beds of clams and other organisms or deposited layers of mud and debris that suffocated the life below. Tsunamis washed into low-lying lakes, changing fresh water to brackish water. Estuarine areas that had been ideal nesting grounds for ducks and geese were uplifted enough to make them unsuitable for waterfowl production or were submerged beneath the sea. Ocean agitation and underwater mud slides probably caused extensive damage to life in deeper waters, although such changes have been difficult to evaluate.

"The Alaska earthquake caused sudden and widespread changes in the environment and in its living creatures. Such dramatic ecological changes occur only rarely, and their study was important in understanding the effects of this particular earthquake. Research in the biological effects of the earthquake could contribute even more to an understanding of the principles of ecological relationships under circumstances that would be impossible to simulate in any controlled experiment."

DIVERSE KINDS OF IMPACT

Studies of the earthquake's biological effects understandably have been episodic, permitting few generalizations of principles. However, from these studies emerges a partial but remarkably diverse catalogue of kinds of results that can ensue from changes of land and water.

The Panel on Biology found these studies particularly noteworthy on two counts. First, they are contributions to a subject area in which there is, in the panel's view, inadequate field experience. Second, because ecological changes that otherwise might have occurred in small increments over long periods of time occurred quickly, these studies are unusually valuable clues to selected aspects of gross ecological change. It was possible, for example, to observe successions of species that established themselves on newly exposed shores of Prince William Sound.

Some more significant effects have been second-order and third order as John H. Crow notes in summarizing his report on nesting grounds of the dusky Canada goose:

"The dusky Canada goose nests in a remarkably restricted area, a part of the Copper River Delta occupied by a plant community characterized by *Hedysarum alpinum americanum* and *Deschampsia beringensis*. This vegetation flourishes in the slightly saline soils at the tops of channel banks, where before the earthquake it was inundated by diluted seawater during occasional storm tides. As a result of uplift during the earthquake, however, the pre-earthquake channel-bank vegetation and the interchannel areas are no longer reached even by the highest tides, and the soil is being rapidly desalinized. Drier conditions and the removal of salt permit invasion of the *Hedysarum-Deschampsia* belt by plants characteristic of other belts, and hence the favored nesting habitat of the goose is deteriorating. Presumably the *Hedysarum-Deschampsia* community will eventually re-establish itself at a lower level on the tidal flats, but the area available is expected to be much smaller than the area occupied at present. Over the years the dusky Canada goose will find progressively more restricted nesting grounds, which will lead to a reduction in its numbers unless it can adapt to other kinds of vegetation."

Alaskan fisheries suffered heavily from the 1964 earthquake. In Prince William Sound, where pre-earthquake intertidal spawning zones for pink salmon were productive and of high quality, post-earthquake zones were found to be of questionable quality, worsened by pools formed by trees that fell victim to salt-water intrusion.

Many of the newly formed intertidal areas no longer were of smooth, constant-gradient gravel bottom. Disruptions of steam-bed

stability destroyed eggs and fry and altered spawning and migrational habits of the pink salmon, and salmon production dropped drastically.

In some instances, there was great land change but adverse effects were difficult to identify. The Klutina River, blocked by an earthquake-caused landslide, changed course about 9 miles downstream from Klutina Lake. The river cut a new channel for itself, and it did not appear that salmon movement was affected.

On Kodiak Island, Mayflower Lake—previously a fresh-water lake—received saline water from the onslaught of tsunamis. It has become unsuitable as a fish habitat except for a few very small populations.

CHANGING POPULATIONS

On rocky shores in Prince William Sound, four instances were found where post-earthquake communities of intertidal invertebrates were different from inferred pre-earthquake communities. Stoner B. Haven of Simon Fraser University reported:

"In areas of maximum uplift, the post-earthquake communities had to develop entirely anew. The fauna was greatly reduced—many species were absent, many others rare—compared to the time before the earthquake, except in the *Laminaria* zone, which supported a near-normal fauna. Much of the midlittoral zone was dominated by the alga *Porphyra*, whereas the normally dominant *Fucus* was uncommon; this distribution may have been related to a scarcity of grazing gastropods. The *Verrucaria* zone supported an algal film, no *Verrucaria*, and a strongly reduced gastropod fauna. In samples from a level bottom habitat, only one post-earthquake clam was found."

THE NEED FOR INVENTORY

Although Alaska has been the subject of much environmental study, the Panel on Biology found a serious "lack of fundamental information on plant and animal communities." The report makes the case for more extensive studies and for an inventory of "living resources." "Several mission-oriented state and federal agencies" are collecting such information, the report says, "but these studies are usually not well coordinated, and no agency is primarily concerned with understanding the general biology and ecology of land and water areas." The report recommends:

"It is not feasible to collect base data for all the biological environments where a disaster might occur, but it is possible to make ecological studies of representative types of aquatic and terrestrial natural environments. Such studies are needed to understand our changing environment and to provide the basis for research after a natural disaster. No single federal or state agency is capable of carrying out major research on representative plant and animal communities, but a good beginning would be to make one of the federal agencies responsible for coordinating such studies."

ELECTRONIC EQUIPMENT DETERMINES EARTHQUAKE EPICENTERS IN SECONDS

As a first step toward making its 1972 move from NOAA headquarters in Rockville, Md., to its new home with the Environmental Research Laboratories in Boulder, Colo., the National Earthquake Information Center has installed a terminal connected to a computer at the Boulder facility.

From now on, preliminary surface locations (epicenters) of earthquakes and a host of associated information will be determined, in seconds, electronically—and the 18-year-old world globe formerly used for this purpose will go into retirement, ending an era in seismology.

Since the 1930's, seismologists have determined earthquake epicenters by measuring the angular distance from reporting seismograph stations to the tremor, and then swinging arcs from several station locations on a large world globe. These arcs intersect at the surface area above the subterranean source, or hypocenter, of the earthquake. (Distance from station to epicenter is estimated by comparing arrival times at the station of different types of seismic waves.)

In compensation for ending an era, the computer offers speed, a higher order of accuracy, and more types of information.

For the time being seismic data will be received by NOAA's Communication Center in Suitland, Md., and transmitted to the NEIC in Rockville, Md., which will input the data into the Boulder computer via the newly installed telephone terminal. The earthquake program in the computer's memory will play back epicenter location (latitude and longitude), hypocenter depth, time of occurrence, and indications of how well each seismograph station's data fits.

According to James F. Lander, chief of the NEIC, this is only the beginning.

"The next step," he says, "will be to add magnitude determinations to the computer program, and to automate the system so that incoming seismic data go directly into the computer. Eventually we want to have historical data on memory discs that can be used with this program. Then we can ask the computer questions like, 'How many earthquakes above magnitude 7 occurred last year, and where?' Or, 'When and where did the last earthquake above such-and-such a magnitude occur within 100 miles of this earthquake?' The possibilities are many and exciting."

EXHIBIT 2

GEOPHYSICAL INSTITUTE,
UNIVERSITY OF ALASKA,
College, Alaska, March 10, 1972.

Hon. TED F. STEVENS,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENS: I understand that Senator Cranston of California has introduced a bill to the Senate requesting funds to initiate and finance a five-year program aimed at earthquake prediction. The Senator recommends that this program be carried out on the San Andreas Fault by the U.S. Geological Survey's National Center for Earthquake Research in California. Such a program in the United States is long overdue. Several nations (Japan, for example) have made earthquake prediction a national goal for many years. However, it is my opinion and that of my staff in the seismology laboratory that such a commendable program as that suggested by Senator Cranston should not be restricted to a single laboratory and to a single fault.

While the San Andreas Fault is one of the world's most striking natural features, it is by no means in a class by itself. The Anatolia Fault in Turkey, for example, and the Denali Fault in Alaska are only two of the seismically active faults which rank with the San Andreas in size and earthquake productivity. It is the high population density of California and consequent publicity that has emphasized the seismicity of that area.

Please let me emphasize that it is not our intent to minimize the earthquake hazard in California, nor to belittle the Geological Survey. The latter has made many significant contributions to earthquake research and no doubt will continue to do so. But so have many other institutions, including the University of Alaska, and it would be a serious oversight to exclude them from the proposed program.

In Alaska, the Geophysical Institute routinely locates some two thousand earthquakes a year, not including those occurring in the highly active Aleutian Islands. The enclosed map relating earthquake epicenters to known faults in a portion of the interior clearly points out the level of activity in a part of the State which is not even generally regarded as being particularly active. In the Fairbanks area alone, some 40 to 60 microearthquakes occur daily. Comparable rates in California are rare indeed.

The techniques which will eventually provide the means to predict earthquakes have been reasonably well established by now. In one way or another, they all involve measuring minute changes in the configuration of the earth's crust which occur prior to an earthquake. One such manifestation is a premonitory tilting of the earth's surface surrounding an impending earthquake. The Geophysical Institute presently operates the only tiltmeters in Alaska, near McKinley Park Headquarters, Paxson Lake, and Gilmore Creek near Fairbanks. However, these three instruments are widely separated and provide less than optimal means for recording tilts in specific seismically active areas such as Cook Inlet. Clearly, further instrumentation is needed.

The National Research Council Panel on Seismology recommended in 1969: "Support should be provided . . . for seismological station coverage in Alaska, the most active area in North America." (*Toward Reduction of Losses from Earthquakes,* Conclusions from the Great Alaska Earthquake of 1964, prepared by the Committee on the Alaska Earthquake, Division of Earth Sciences, National Research Council/National Academy of Sciences, 1969, page 16), and we heartily concur, because such coverage will ultimately provide the missing information.

We strongly support the concept of a national program of research into the prediction and possible modification of earthquakes but feel that such a study should not be the responsibility of any one laboratory.

The National Science Foundation has been supporting projects aimed at earthquake prediction for many years, although the work is being carried out piecemeal and not as an integrated program. The expertise of NSF should surely be of value in the administration of any national program of earthquake prediction. Limited funds for partial support of such an undertaking are already available through NSF's program "Research Applied to National Needs", but the level of funding is not nearly enough to implement a national program.

We do urge the Alaskan Congressional delegation to give full support to Senator Cranston's bill for a national program of earthquake prediction and prevention, but advise that the bill be amended to provide for other qualified laboratories in the United States to participate, and for other earthquake-prone areas besides California to be investigated.

It is vital that Alaska be included in any such consideration of earthquake risk, prediction or prevention.

Very sincerely,

KEITH B. MATHER,
Director.

MARINE MAMMAL PROTECTION ACT—ORDER FOR STAR PRINT

Mr. STEVENS. Mr. President, I request unanimous consent that a star print be made of S. 3161, a bill concerning the management of marine mammals, which I introduced by request. I ask that this star print incorporate the amendment, No. 1048, introduced Wednesday, exempting certain handmade native arts crafts and clothing from the provisions of the act.

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

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 305

At the request of Mr. KENNEDY, the Senator from Michigan (Mr. HART) and

the Senator from Connecticut (Mr. RIBICOFF) were added as cosponsors of S. 305, the "National Digestive Diseases and Nutrition Act."

S. 855

At the request of Mr. COTTON, the Senator from New Jersey (Mr. CASE) was added as a cosponsor of S. 855, a bill to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement.

S. 1566

At the request of Mr. CRANSTON, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1566, a bill to amend the Federal Aviation Act of 1958 in order to provide for more effective control of aircraft noise.

S. 1775

At the request of Mr. TUNNEY, the Senator from Michigan (Mr. GRIFFIN) was added as a cosponsor of S. 1775, a bill to credit a National Agricultural Bargaining Board, to provide standards for the qualification of association of producers, and to define the mutual obligation of handlers and associations of producers to negotiate regarding agricultural products.

S. 1969

At the request of Mr. HART, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 1969, a bill to suspend for a period of 2 years the execution of prisoners under sentence of death in the States.

S. 2163

At the request of Mr. MATHIAS, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 2163, the Vietnam Veterans Act of 1971.

S. 2360

At the request of Mr. WILLIAMS, the Senator from Indiana (Mr. HARTKE) was added as a cosponsor of S. 2360, the Automobile Driver Education Act.

S. 2612

At the request of Mr. RANDOLPH, the Senator from Florida (Mr. GURNEY) was added as a cosponsor of S. 2612, a bill to establish policy and principles for planning the use of the water and related land resources of the United States.

S. 2734

At the request of Mr. SCHWEIKER, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 2734, a bill to amend the Fair Packaging and Labeling Act to provide for the establishment of national standards for nutritional labeling of food commodities.

S. 2956

At the request of Mr. JAVITS, the Senator from Massachusetts (Mr. BROOKE), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of S. 2956, the War Powers Act.

S. 3010

At the request of Mr. NELSON, the Senator from Indiana (Mr. BAYH) and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of S. 3010, a bill to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes.

S. 3136

At the request of Mr. SCHWEIKER, the Senator from Minnesota (Mr. HUMPHREY), the Senator from New York (Mr. JAVITS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Pennsylvania (Mr. SCOTT), were added as cosponsors of S. 3136, a bill to amend the Federal Food, Drug, and Cosmetic Act to regulate the amount of lead and cadmium which may be released from glazed, ceramic, or enamel dinnerware.

S. 3163

At the request of Mr. NELSON, the Senator from Minnesota (Mr. MONDALE), was added as a cosponsor of S. 3163, a bill to amend the Federal Food, Drug, and Cosmetic Act, relating to food additives.

S. 3193

At the request of Mr. NELSON, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of S. 3193, a bill to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes.

S. 3201

At the request of Mr. PACKWOOD for Mr. SCHWEIKER, the Senator from Indiana (Mr. HARTKE) and the Senator from Tennessee (Mr. BAKER) were added as cosponsors of S. 3201, the Heart Disease Prevention Act of 1972.

S. 3204

At the request of Mr. FANNIN, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 3204, a bill to amend title IV of the Social Security Act to permit greater flexibility in State plans for aid and services to needy families with children.

S. 3309

At the request of Mr. BURDICK, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 3309, a bill to reduce recidivism by providing community-centered programs of supervision and services for persons charged with offenses against the United States, and for other purposes.

S. 3323

At the request of Mr. KENNEDY, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Colorado (Mr. DOMINICK), and the Senator from Illinois (Mr. STEVENSON) were added as cosponsors of S. 3323, the National Heart, Blood Vessel, Lung and Blood Act of 1972.

SENATE JOINT RESOLUTION 180

At the request of Mr. ROTH, the Senator from Vermont (Mr. STAFFORD) was added as a cosponsor of Senate Joint Resolution 180, authorizing the President to issue annually a proclamation designating the month of May in each year as "National Arthritis Month."

SENATE JOINT RESOLUTION 191

At the request of Mr. CRANSTON, the Senator from Minnesota (Mr. MONDALE) was added as cosponsor of Senate Joint Resolution 191, designating the week of May 1–7, 1972, as "National Bike-cology Week."

SENATE JOINT RESOLUTION 217

At the request of Mr. MCGEE, the Senators from Montana (Mr. MANSFIELD and Mr. METCALF), and the Senator from Pennsylvania (Mr. SCOTT) were added as cosponsors of Senate Joint Resolution 217, to create an Atlantic Union delegation.

SENATE CONCURRENT RESOLUTION 70—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF SENATE HEARINGS ON CONSUMER PRODUCT SAFETY ACT OF 1971

(Referred to the Committee on Rules and Administration.)

Mr. MANSFIELD, for Mr. MAGNUSON (for himself and Mr. COTTON), submitted the following concurrent resolution:

S. CON. RES. 70

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Commerce two thousand additionals copies each of parts 1 and 2 of its hearings during the first session, Ninety-second Congress, on the Consumer Product Safety Act of 1971.

SENATE RESOLUTION 282—SUBMISSION OF A RESOLUTION RELATING TO ASSISTANCE FOR MINORITY POPULATIONS IN BANGLADESH AND PAKISTAN

(Referred to the Committee on Foreign Relations.)

Mr. HARRIS. Mr. President, earlier today the Senate agreed to a resolution favoring the recognition of the new nation of Bangladesh. I think the action is highly justified and appropriate. I want to talk about that area of the world in my remarks this morning.

Mr. President, the story in South Asia the past 12 months has been the story of forgotten people. The people of the region are poor. They have little power, so the world paid little attention as one of the worst massacres of this century or any other took place in East Bengal, now the new nation of Bangladesh.

Today the same wretched tale is beginning again. Once again the world is turning its attention elsewhere while helpless people are in danger of starvation or violent death. I am speaking of the Bengali minority in Pakistan and the Bihari minority in Bangladesh.

Mr. President, apparently there is some law of international relations that the world can be concerned only with yesterday's misfortunes, never tomorrow's problems.

Last year, the world turned its back as millions of refugees poured into India, overtaxed its economy and social structure and finally strained tensions between India and Pakistan to the point of open war. Then, when the damage was done, the governments of the world began to show some concern for the plight of miserable and unfortunate people. And aid, still in outrageously small and inhumane amounts, began to flow.

Today we are in the process of repeating another cycle of neglect. Once the war was over, it was evident to anyone

familiar with South Asia that the new nations of Bangladesh and Pakistan would encounter difficulties in integrating certain minorities into their new nations.

In Bangladesh, the Urdu-speaking Bihari community since the creation of Pakistan in 1947 has tended to remain a distinct group with a separate language and culture. During the civil war, it was felt to have favored the West Pakistani repression so that today, despite the moderate and tolerant course of the Bangladesh leaders, Biharis are fearful that at some point the majority population of Bangladesh may demand retribution.

The number of Biharis in Bangladesh is unclear. The 1961 Pakistani census listed only 310,000 Urdu-speaking people in East Pakistan plus another 100,000 who did not speak Bengali. Assuming a normal population increase of 3 percent a year, the Biharis or non-Bengalis might number more than 500,000. Newspaper reports from Bangladesh, however, repeatedly talk of 1.5 to 2 million Biharis.

In Pakistan itself, there is uncertainty about the ultimate fate of Bengalis living there. Like the Biharis in Bangladesh, the Bengalis in Pakistan live in an alien culture. Many of them went to Pakistan because of better job opportunities there. Many are skilled civil servants or businessmen who are needed in their new motherland, Bangladesh.

Their numbers also are uncertain. Estimates range from 100,000 to 500,000.

In recent weeks the position of both the Bengali community in Pakistan and the Bihari community in Bangladesh has been undermined. For several months the Biharis in Bangladesh have chosen to live in fear in camps cut off from the rest of the population. Senator KENNEDY visited one of these camps recently and reported that while conditions were poor, the Biharis he saw were being fed, sheltered and protected. Clearly, however, the Bihari community was and is fearful for the future.

Then, in early March open violence broke out between Biharis and Bengalis in the city of Khulna. Reports of the number of Biharis killed vary from 30 to 1,000 but it is evident that popular passions exploded and a number of innocent people perished.

We now await the next stage in this tragedy. Perhaps it came this week. President Bhutto stated before a rally in Lahore that unless alleged massacres of Biharis in Bangladesh ceased, he could not guarantee the security of Bengalis in Pakistan. This is the first time that the specter of retribution against the Bengali population in Pakistan has been raised.

Before everyone's mind is the dimension which communal violence can take in South Asia once popular passions are unleashed. During the 1947 partition of India, literally millions of innocent people were slaughtered in the streets or in their homes.

Complicating the human drama facing Bangladesh and Pakistan is the fate of the Pakistani prisoners of war. Captured by India during the Indo-Pakistani war last year, these men number some 90,000. Recently, India and Bangladesh announced that they would not be released until Pakistan agreed to recognize the new nation of Bangladesh.

Mr. President, it is clear that the war in South Asia last year raised a host of new political and military problems. The whole region must adjust to the enhanced military position of India. It must cope with the reality of a new and impoverished nation in Bangladesh. And it must find a future role for truncated Pakistan. With the best of wills and circumstances, these awesome problems would test the skill of the best diplomats and statesmen in the world.

But the question is whether there can ever be any rational consideration of these problems so long as popular passions in the area focus on the plight of the minorities in Bangladesh and Pakistan. I believe the answer is a clear "No."

So long as the lives of the Bengalis in Pakistan and the Biharis in Bangladesh seem to be in danger, the possibility of solving other problems remains bleak. We will continue to see the process of one nation pushing the other into the corner until compromise on other problems becomes impossible.

It is, therefore, in the interest of both Bangladesh and Pakistan and in the interests of the international community to take appropriate steps to protect the two communities in danger. It is in the interests of all nations that the people of Bangladesh and Pakistan be assured that their brothers currently living in danger will either be protected or resettled.

It is with this thought in mind that the Senator from Minnesota (Mr. HUMPHREY) and I today are submitting a resolution which states that the United States should offer its cooperation and assistance to the United Nations and other organizations involved in the protection of the minority populations in Pakistan and Bangladesh and in the protection of the Pakistani prisoners of war.

The resolution also calls upon the Secretary of State to submit a report to the Congress within 30 days of enactment of this resolution regarding: first, steps to be taken for the protection of these minority populations; second, the possibility for population exchanges between Pakistan and Bangladesh as well as an estimate of the cost for resettlement; and third, the possibility for the release of the Pakistani prisoners of war.

The executive branch already has a congressional mandate to provide assistance to the refugees who fled into India and who are now returning to Bangladesh. To the degree that it is now failing to carry out this mandate, it will be rightly exposed to sharp congressional attack. This resolution would now make it clear that the administration also has a mandate to provide assistance to international programs designed to protect endangered minority communities in Bangladesh and Pakistan.

The resolution would also force the administration to begin thinking of steps which the international community could take in the event that further measures, including resettlement, become necessary to protect these communities. The world should not wait until the disaster is upon us. Careful thought should be given to such problems now while there is still time to consider alternatives.

I hope that other Senators will join with us in cosponsoring this resolution. No power gains by the unnecessary suffering of minority populations in either Bangladesh or Pakistan. Moreover, while the plight of these minorities continues, the prospect of better relations between Bangladesh and Pakistan remains dim.

Last year it took the Congress months to respond to the appalling human tragedy which took place in East Bengal. Today the Congress has an opportunity to make clear beforehand that it wishes to assist in efforts leading to a peaceful settlement.

The Congress often complains that its role in foreign policy is being neglected. So it has. But if the Congress wishes to have a role, then it must stop waiting until catastrophe is at its door. It must take action while there is still time.

Mr. President, I ask unanimous consent that the text of the resolution by Senator HUMPHREY and myself be printed at this point in the RECORD. I also ask unanimous consent that several newspaper articles on the plight of minority populations in South Asia be printed at this point in the RECORD.

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

S. RES. 282

Whereas the new state of Bangladesh has been established and fully recognized as a sovereign country according to the principles of international law;

Whereas the countries of Bangladesh, Pakistan, and India have all been involved in a war whose total settlement has not yet been concluded by all the parties;

Whereas there are substantial numbers of minority populations in Bangladesh and Pakistan whose lives and welfare may now be threatened;

Whereas Pakistani prisoners of war have not yet been repatriated;

Whereas Indian troops have been withdrawn from Bangladesh: Now, therefore, be it

Resolved, That the United States offer its cooperation and assistance to the United Nations, the International Committee of the Red Cross, and any other organization involved in the protection of minority populations in Pakistan and Bangladesh and the Pakistani prisoners of war; and That

The Secretary of State undertake a study of the situation as it affects these groups and report to Congress within thirty days upon enactment of this resolution. The report should contain a review of the measures to be taken for the protection of these minority populations, the possibility for population exchanges between Pakistan and Bangladesh, as well as an estimate of the cost for resettlement, and for the release of Pakistani prisoners of war.

[From the New York Times, Mar. 20, 1972]

BHUTTO DAMPENS PEACE PACT HOPE—BACK FROM SOVIETS, PAKISTANI BARS ANOTHER 'TASHKENT'

(By Malcolm W. Browne)

LAHORE, PAKISTAN, March 19.—President Zulfikar Ali Bhutto, who returned here last night from Moscow, indicated today that a peace settlement on the subcontinent was as distant as ever.

Addressing a frequently riotous crowd of about 200,000 of his party workers and supporters here, Mr. Bhutto drew laughter when he asked if he looked like a man who would sign "a Tashkent agreement."

The war of 1965 between Pakistan and India formally ended with an agreement signed at Tashkent in the Soviet Union. There had been general speculation that Mr. Bhutto's visit to Moscow might have involved a similar peacemaking mission.

Mr. Bhutto, dressed in the new Chinese-style uniform decreed for all leading officials in his Pakistan Peoples' party, took particular note of Pakistan's friendship with China and the crowd roared approval.

Lahore Stadium, packed to capacity, was decorated with an enormous sign reading, "East Is Red," a Chinese slogan.

SOVIET VISIT DESCRIBED

Implying that his talks in Moscow had fallen short of friendly warmth, President Bhutto said he had told the Russians he was willing to cooperate, but not against any third country, presumably meaning China.

He said the Americans also were welcome to improve their relations with Pakistan if they chose to do so.

But Mr. Bhutto reserved special praise for the Arab nations "which have stood with us," and for Libya in particular.

Turning toward the diplomatic corps, he announced that he was renaming Lahore Stadium in honor of Col. Muammar el-Quaddafi, the Libyan chief of government, who is scheduled to visit here next month. The Libyan Ambassador rose to an ovation from the crowd.

In regard to India, Mr. Bhutto noted that Prime Minister Indira Gandhi had said she wished Pakistanis to be the brothers of Indians. "If Indira Gandhi wants to be a sister to us, she will first have to release our brothers, the Pakistani prisoners of war," he said.

The President demanded that Bangladesh immediately halt the reported persecution of non-Bengali residents. Otherwise, he said, Pakistan will not permit Bengalis living in Pakistan to leave for Dacca.

HOSTAGE-HOLDING SUGGESTED

This marked the first time Pakistan has openly suggested that the bengalis here may be held as hostages for trading purposes.

Mr. Bhutto's hard language did not reflect any progress toward settlement of the major issues confronting the subcontinent. There had been rumors among diplomats that his trip to the Soviet Union might at least produce some negotiating basis on the key issue of Kashmir, which is divided between India and Pakistan.

"We Pakistanis might be able to forget about Kashmir, but the people of Kashmir cannot forget," he said.

Mr. Bhutto noted that the British Foreign Secretary, Sir Alec Douglas-Home, was arriving in Pakistan later tonight and asked the people to make him welcome. Pakistan's relationship with Britain has been chilly during the last year and the Islamabad Government recently withdrew from the Commonwealth after Britain recognized Bangladesh.

"We have good relations with the British," Mr. Bhutto said. "We are going to give them a good welcome; we are not enemies."

RIOTING WAS THREATENED

The long speech was frequently interrupted by a noisy crowd and riots nearly developed many times. Loudspeakers in the stadium were defective and only half the people could hear. Those who could not surged and roared about the stadium and even the hundreds of policemen and the president's uniformed "People's guards" were unable to quell the disorder. Eventually the loudspeakers were partly repaired. Mr. Bhutto's Finance Minister, Dr. Mubashir Hasan, repeatedly walked into the crowd, trying to restore order.

At one point, the president, whose voice had become shrill, threw a pitcher of water at the throng. A German who tried to photograph the forays between the club-swinging policemen and the crowds was seized by the provincial vice president of Mr. Bhutto's party and ordered not to take pictures of the disorder.

Mr. Bhutto, who spoke in Urdu laced with frequent vulgarities, pointedly told the policemen present that he intended to improve their lot.

The president faced a police mutiny here two weeks ago, in which he called on the army to intervene. The army commander, Lieut. Gen. Abdul Gul Hassan, refused, and was immediately dismissed. However, the police mutiny died out.

[From the Washington Post, Mar. 20, 1972]

INDIA, BANGLADESH SIGN DEFENSE PACT

India has signed a mutual defense treaty with Bangladesh in which the two countries pledge immediate consultations and assistance if either is attacked.

The agreement was contained in a pact signed yesterday by Indian Prime Minister Indira Gandhi and Bangladesh Prime Minister Sheikh Mujibur Rahman as Mrs. Gandhi wound up a two-day visit to Bangladesh.

The treaty is the first signed by Bangladesh, the former East Pakistan, since it won its independence with the help of India's armies last December. The Pakistani government has not recognized Bangladesh's independence, but most major countries of the world have. The exceptions are the United States and China.

India and Bangladesh also signed agreements to revive trade between the two countries and take joint action on flood control and hydroelectric power.

The treaty's language on mutual defense strongly resembles that in the pact India signed with the Soviet Union last August.

It says that "in case either party is attacked or threatened with attack," leaders of the two countries "shall immediately enter into mutual consultations in order to take effective measures to eliminate the threat."

India has an army of about 800,000, while Bangladesh fewer than 3,000 professional soldiers, so it is clear which party is the protector and which the protected.

Bangladesh faces no immediate threat of hostile action from its neighbors, since it touches only India and a small piece of Burma. But observers in Dacca said the treaty has psychological advantages for Bangladesh, assuring it of protection without denting its dignity.

Sheikh Mujib and Mrs. Gandhi also signed a joint declaration that India will cooperate with Bangladesh in trying "those guilty persons . . . responsible for the worst genocide in recent times." This was a reference to Bangladesh's intention to try Pakistani soldiers and government workers it considers responsible for the slaughter of thousands of Bengalis before independence was achieved.

The Pakistani government of Zulfikar Ali Bhutto is seeking the repatriation of an estimated 90,000 prisoners of war held in the east.

Bhutto, himself just back from a fence-mending visit to Moscow, countered at a rally in Lahore calling on Mujib to halt the alleged massacres of non-Bengalis in the new state.

It would otherwise "not be possible to guarantee the safety of Bengalis in West Pakistan," he warned. "If excesses have been committed on Bengalis previously, then the people of West Pakistan are ready to apologize," he said.

"But cruelty should not be perpetuated . . . for God's sake let's stop this massacre."

INDIA BLOCKS FLIGHTS BY U.S. ENVOY'S PLANE

NEW DELHI, March 19 (AP)—The Indian government has turned down two requests for permission for U.S. Ambassador Kenneth Keating to use the embassy plane to fly to the dedication of a hospital in the south that was built mostly with American money.

The plane, a twin-engine Convair, has been used by American ambassadors for the past decade to travel around the country.

An embassy spokesman said he could not "ascribe any reasons" for the refusals.

[From the New York Times, Feb. 21, 1972]

MUJIB SAYS HE WOULD LET BIHARIS LEAVE FOR PAKISTAN

(By C. L. Sulzberger)

DACCA, BANGLADESH, February 15.—Sheik Mujibur Rahman, Prime Minister of the enormous new state of Bangladesh, said in an interview today that he would welcome an internationally arranged population exchange with Pakistan, enabling non-Bengalis now living in this fledgling country to depart.

Such a step, he said, would facilitate the return here of Bengalis now in the Islamic nation that, as West Pakistan, controlled this country until the independence struggle and the Indian invasion in December.

Sheik Mujib estimated that the minority of non-Bengalis who would wish to be transferred out of Bangladesh amounted to 750,000 people.

The general belief is that there are perhaps two million Biharis in Bangladesh in a population of 75 million. The Biharis—Bihari is the general term to denote non-Bengali Moslems—are widely detested. They contributed much active support for, and collaborated, with the Pakistani military and civilian authorities in the bloody campaign against the Bengalis' autonomy movement.

The Prime Minister said that he thought the United Nations was the proper authority to administer such a population exchange and that he would enthusiastically welcome it. Nevertheless, he took pains to insist that the minority here was being treated tolerantly by the majority despite recent horrors.

Notwithstanding Sheik Mujib's assurances, it is known that the Biharis live in great fear and that some have been badly treated since independence.

Sheik Mujib is an unusual man. The word "sheik," an honorific similar to "esquire," denotes his middle-class, land-owning antecedents. Mujib, the diminutive of his first name, expresses the universal affection felt for the national leader.

He is an emotional man of 55 years with gleaming black eyes, graying hair and mustache and a vigorous demeanor. Tall for Bengalis, he stands almost 6 feet. He smiles readily and likes to talk, waving the pipe he always clutches. During the interview, in English, he showed friendship for the American people but none for the American Government.

He seems to have survived 11 years of imprisonment for his political opinions without a scar. Nine years were in solitary confinement, often without books; when he had them, he said, they were his only friends.

He said he always slept easily and well, even falling off to a full night's rest an hour after he was seized last March 25 by the Pakistani authorities, who were believed ready to kill him. "I was at ease," he observed. "If a man is ready to die, how can you kill him?"

The Bengali leader is not given to intellectual enthusiasms or, as in the case of Pakistan or the Nixon Administration, passionate dislikes.

The "I's" flash through his sentences like telephone poles beside a speeding train, but he gives the impression that, rather than being conceited, he simply associates himself with his nation.

Thus Sheik Mujib may say, when discussing economic prospects: "I have jute, I have tea, I have hides and skins. I have forest products. I have natural gas. I have fish."

He insists that he is a pragmatist, saying: "I am not a philosopher, I am a practical man. First I am a nationalist. Second I am a democrat. Third I am for secularism. And fourth I am a socialist. But it is my own socialism and not imported from abroad."

But questions about his practical plans draw a blank. He says the economy is fundamentally good although Bangladesh needs emergency aid to recover from the recent holocaust. If the American people—not the Government—wish to help, he would want food, medicine, transport equipment and emergency housing materials to erect huts replacing the millions of houses destroyed. He wants it all if possible before the rainy season begins in May.

He is vague about finances and administration. Seventy per cent of Pakistan's small stock of gold and hard money belongs to Bangladesh, he insisted, and he spoke about drawing up an indemnity bill to be charged to Pakistan both for Bangladesh property and for the immense damage caused.

He said the civil service and the brand-new diplomatic service were functioning well, but others are less optimistic. He expects Bangladesh to have a "modest" defense force.

In foreign policy, the Prime Minister insisted, Bangladesh will remain nonaligned, and he wants to be friendly with all nations, including China and the United States, once they recognize his regime. But he is clearly wedded to a close attachment to India and to the Soviet Union.

Sheik Mujib sternly recalls that while Moscow was protesting Pakistani repression and using its veto in the United Nations to defend the Indian-Bangladesh cause in the war, President Nixon was "not protesting but sending arms to the Pakistanis who were murdering us."

"Yet he knew what was going on," the Prime Minister continued. "He had his consulate and his C.I.A. here reporting to him. But when his Consul General told the truth, he was taken away and sent somewhere else."

According to the Prime Minister, law and order prevail and there is no abnormally high crime rate. No guerrilla bands exist as such any more, he added, except for "a few hooligans armed by the Pakistanis." His authorities control all districts, he maintained.

He said Bangladesh was satisfied with her borders and had no territorial claims.

Discussing the Pakistani military action here, he used figures that are questioned by neutral authorities.

"A minimum of three million people died here," he said. "Just today in one town a thousand skulls from decapitated bodies were found. Two hundred thousand girls were raped."

He said several thousand "collaborators," all civilians, would be tried under civil law in open court. There will also be trials of what he appeared to estimate as several hundred "war criminals," all Pakistani military men who are thought to be in Indian prisoner-of-war camps. Sheik Mujib said they would be tried in special courts under a law not yet drafted.

Summing up his views, Sheik Mujib said he intended to create "a society without exploitation."

"I don't want any cartels or capitalistic controls," he added. "I love humanity."

[From the New York Times, Mar. 17, 1972]

BENGALIS SHAMED BY KILLING OF BIHARIS

(By Sydney H. Schanberg)

KHULNA, BANGLADESH.—Nearly everywhere in this Bengali city people are nervously trying to hide their shame.

No Bengali resident can be found who will talk of the details, and many pretend the incident never happened. But facts are emerging that make it clear that last Friday, in a dark burst of revenge against an ethnic minority many of whose members had collaborated with the Pakistani Army, the Bengalis attacked the Bihari colony here, setting fire to homes and killing indiscriminately. The killing was done mostly with knives, some of them large machete-like blades.

It is impossible to get an exact casualty count. Some people say many Bihari bodies were thrown into the Bhairab River and have been washed away. Trustworthy sources, including ashamed Bengalis, report that the toll of dead and wounded is at least several hundred.

This correspondent saw 100 wounded alone at the main hospital, and an extensive area of several blocks in the Bihari colony, known as Khalishpur, is gutted by fire and looting. The survivors have fled.

"Some say a thousand were killed," said a defected leading Bengali citizen, who asked not to be named. "Some say more, some say less. It is not something we are proud of."

Virtually every city and large town in Bangladesh has been sitting on a similar powder keg ever since India's military victory over Pakistan last December created this new Bengali nation of 75 million out of what was East Pakistan. The non-Bengali population of over a million, who are known collectively as Biharis and who are now living in anxiety or outright fear, provided many of the collaborators who helped the Pakistan Army kill at least hundreds of thousands of Bengalis during the army's nine-month occupation aimed at crushing the Bengali autonomy movement.

Despite appeals by the three-month-old Bangladesh Government for restraint and tolerance, there have been sporadic revenge executions in several cities, including some that have touched off clashes in which Bengalis have been killed, but none of these had been on the scale of the Khulna incident.

WOUNDED FILL CORRIDORS

At Sadar Hospital here, the corridors and aisles and even office rooms are filled with the wounded, men, women and a few children with blood-stained bandages on heads and limbs. The overcrowded hospital has no beds for them, so they lie on blankets and thin straw mats on the hard stone floor, eating their supper of sugared bread and milk.

Most are still wearing the blood-stained clothes in which they arrived at the hospital. Some are too weak to speak and a few are dazed and incoherent.

"I am alone, I am alone," Sharfuddin Ahmed, 50, kept mumbling. "My family is all killed. There's no one to look after me. I am ill. Will someone come and help me?"

A few miles away, in the jute mill area where the Bihari colony is located, one section of the colony is bleak and completely abandoned. Some areas where thatch huts once stood, possibly market areas, have been burned to the ground, leaving empty fields marked only by small clumps of ashes and a few scraps of clothing.

The sturdier houses of brick and concrete are blackened by the fires set inside, which put ablaze the wooden furniture and shutters. The front of one of these one-story dwellings is pocked with bullet holes. Some of the goods of a looted grocery store are still lying strewn in the dust.

Not a light can be seen in the eerie area and no sound can be heard except the occasional clomp of the boots of the Bengali soldiers who have been posted to keep the peace and enforce the curfew imposed after the killing.

"The people are worried and panicky," said one of the young soldiers of the Biharis. "We will stay and the curfew will stay until there is calm."

The soldier, who had fought in the independence struggle against the Pakistanis, said that his entire battalion of 800 men had been brought here from Jessore, about 40 miles away, on the day after the incident.

In the Bengali areas around the Bihari colony, life appears normal. The movie house is doing its usual business, the market is busy and on the dirt sidewalks young men are playing caromboard, a game of the pool family played on a wooden table with plastic discs instead of balls and flicking fingers instead of cues.

"I saw nothing," said one Bengali merchant whose shop is right next to the gutted Bihari area. "The Biharis left this neighborhood two months before independence. Only Bengalis live here now." Bengali soldiers sidled up to monitor the conversation.

The Biharis who fled the ruined area are now living in refugee camps in another part of the Bihari section. The camps were set up by the Bangladesh Government, which is also providing food and medical clinics. These tent camps are cordoned off and closed to all but doctors and relief workers.

Many Bengalis in Khulna talk euphemistically of the indigent as "a clash between two groups." "It was no clash," said a foreign relief worker here. "It was a slaughter."

With Bengalis understating the casualties and the Biharis exaggerating them (one wounded Bihari said more than 20,000 of his people had been killed), it is difficult to piece together an accurate picture of what happened.

For example, Dr. Sirajul Islam, director of Sadar Hospital, said that only seven of the wounded had died in the hospital and that three of them were Bengalis. However, reliable sources said that about 30 had died in the hospital and nearly all of them were Biharis.

[From the New York Times, Mar. 4, 1972]

PLIGHT OF BIHARIS AN ISSUE IN INDIA—MRS. GANDHI'S OPPONENTS ACCUSE HER OF NEGLECT

NEW DELHI.—Opposition parties in India are making the plight of the Bihari minority in Bangladesh a campaign issue in an attempt to dent the formidable popularity of Prime Minister Gandhi before the state elections scheduled for next week.

Sixteen of the 21 Indian states are to vote. In the campaign Mrs. Gandhi's New Congress party has been stressing India's military victory over Pakistan in the war last December that resulted in the creation of the independent nation of Bangladesh out of East Pakistan.

The four opposition groups—the right-wing Hindu Jan Sangh Old Congress, Socialist and Left Communist parties—have accused Mrs. Gandhi of neglecting the non-Bengali Moslems in Bangladesh, who originally migrated from India and who are known collectively as Biharis.

At a recent conference in Patna, the capital of Bihar State, the parties demanded the the Biharis be allowed to return to India to save them from what they call "persecution by the Bengalis."

OPPOSITION IS ACCUSED

Mrs. Gandhi has retorted that the Biharis are being protected, by the Bangladesh Government and by India's armed forces and has accused the opposition of a "deliberate attempt to exploit the sentiments of Moslem voters in India."

She says she would never agree to the return of the Biharis because they would be a source of religious tension between Hindus and Moslems.

There are over 65 million Moslems in this predominantly Hindu nation of 550 million people and their votes are thought to have helped Mrs. Gandhi sweep the parliamentary elections last year.

Moslem attitudes, however, appear to have changed. Although most Indian Moslems condemned the Pakistani repression of Bengalis in what is now Bangladesh, they are unhappy over the dismemberment of Pakistan, a Moslem nation. Reports that Bengali guerrillas have killed Biharis in reprisal for their collaboration with the Pakistan Army have drawn critical comment in Moslem newspaper here.

MOSLEM VOTES A BIG FACTOR

Moslem voters account for nearly a third of the electorate in several states in northern India and there are areas throughout the country where they are in a majority.

But it is doubtful whether the opposition's bid to placate the minority Moslem community will reverse the swing to Mrs. Gandhi's party, which is riding the crest of the victory over Pakistan and seems certain to emerge a big winner. Her promise of a stable government is an alluring prospect to people in states such as Bihar and West Bengal where political instability and violence have long been commonplace.

In barnstorming across the country, Mrs. Gandhi has maintained that unity and stability can be attained only if the states have the same party government as that at the center. She has also been saying that India's security is still being threatened by Pakistan and her supporters.

During President Nixon's visit to China Mrs. Gandhi told Indian voters that the two powers who supported Pakistan on the Bangladesh issue were probably working on "a new strategy" in Asia that would be harmful to India. She asked her people to be "alert and vigilant."

At a public rally last week in New Delhi Mrs. Gandhi said that only the Soviet Union had backed India in her "hour of crisis" during the December war. "Where would we have been if we had followed the suggestion of the Jan Sangh to look to the United States at that time?" she asked.

[From the New York Times, Feb. 13, 1972]

BANGLADESH: BIHARIS—THE PEOPLE NOBODY WANTS

(By James P. Sterba)

RAWALPINDI, PAKISTAN.—The Bihari Moslems of Bangladesh are the latest victims on the Indian subcontinent, where hate, racism and religious intolerance have enjoyed triumphant pasts and in all probability share bright futures.

An estimated 1.5 million Biharis are trapped in East Bengal, and by the weekend it was beginning to appear as though no one really wanted them—not even Pakistan.

For despite a rising public furor in the West over Bengali violence against Biharis, the general attitude here was perhaps summed up best by a young Foreign Ministry official who said: "What are we supposed to do with them? We have enough problems already. Besides, you must remember, they are really Indian refugees."

Driven out of their native state, Bihar in India, by religious savagery when the subcontinent was partitioned by the British in 1947 into Moslem Pakistan and Hindu India, hundreds of thousands of Biharis sought refuge among fellow Moslems—the Bengalis in East Pakistan.

But as Urdu speakers and with a sense of ethnic superiority over the Bengalis, the Biharis never integrated. Instead they remained one step above the Bengalis. If Bengalis pedaled trishaws, Biharis drove taxis. If Bengalis owned stalls, Biharis owned hardware stores.

When the West Pakistan Government postponed convening the National Assembly in early March to thwart the overwhelming election victory of Sheik Mujibur Rahman's party, the Awami League, Biharis were natural targets of Bengali mobs, though the foreign press was not around to report much of that early wave of killing and destruction.

When the West Pakistan military cracked down on March 25 with its own well-publicized campaign of brutality against the secessionist Bengalis, it was natural for the Biharis to join them. On the morning of Dec. 16, many Biharis were solidly in the ranks of the oppressors, collaborating with the West Pakistan military forces. By afternoon that same day, even before the Pakistani army in Dacca formally surrendered to India, the Biharis had become the oppressed.

Now they grope in fear, surrounded by revengeful Bengalis in the sealed-off towns of Mirpur and Mohammadpur near Dacca, where their plight has been publicized, and in dozens of other towns, where their fate is largely unknown.

Both politicians and the press in Pakistan have filled the air with stories of Bengali brutality against Biharis: They are supposedly being tortured and killed by the thousands, they are being starved to death, their property has been seized and their homes looted, and when the Indian Army vacates Bangladesh on March 25 they will all be killed.

There is a good deal of thinly disguised delight in Pakistan in the opportunity to accuse someone else of brutality. The Government last week unleashed a propaganda barrage with an official spokesman terming the Bihari plight "genocide of the first order." Protest notes were sent around the world, and Premier Zulfikar Ali Bhutto sent a message to Sheik Mujibur urging mercy for Biharis in Bangladesh.

At the same time, however, the Government said those countries that recognized Bangladesh as an independent nation before full order had been restored shared responsibility for the fate of Biharis there. It went on to suggest these countries take the Biharis into their own lands as immigrants.

Public rage, meanwhile, has been allowed to boil up along with suggestions that the safety of more than 200,000 Bengalis trapped in Pakistan is being insured only by the good will of President Bhutto's Government.

His Government would obviously like to arrange a swap, but not necessarily for the Biharis. Its first priority is getting about 93,000 West Pakistani troops and civil servants out of Indian prisoner-of-war camps and back with their families. But for barter, it has only about 600 Indian troops as prisoners—and 200,000 or more Bengalis whose precarious position has been brought to attention by the Bihari issue.

But what of the Biharis themselves? Most would surely choose to leave Bangladesh. But where would they go?

Several thousand of them escaped to West Pakistan from the East during the violence in early March. They were consigned to a refugee camp outside Karachi where, hungry and dirty and jobless, most still dwell—existing on local charity as unwelcome strangers in their own country.

[From the Washington Post, Feb. 11, 1972]

TWO INDIAN OFFICERS DEFY ORDERS TO DELIVER FOOD TO BIHARIS

(By Lee Lescaze)

DACCA.—As soon as the people realized there was food in the jeep they pressed around it, reaching their hands through the windows and slits in the canvas roofing, pleading for a bag of grain.

"Please, sir," they begged and the weight of their pressing bodies rocked the jeep. Plastic bags of rice and wheat were snatched by the hands and the lucky recipients disappeared in the crowd. Some bags broke as men grabbed them and the rice spilled on the jeep floor, on the ground and in men's hair.

Whether the Bangladesh government is keeping its promise to send food into the non-Bengali community of Mirpur or not is impossible to determine. But if it is sending some food, it is not sending enough.

The jeep was a private and illegal relief effort by two Indian army majors. They bought the grain and entered Mirpur yesterday afternoon despite Bangladesh government orders that all foreigners are to be kept out of the colony.

The majors, anxious not to be reported to their army superiors, became alarmed as (Biharis) ran toward their jeep, threatening to start a riot for the food or at least form a crowd so large and noisy that it would draw the attention of nearby Bangladesh government soldiers.

But the majors, who are Moslems like the majority of Bangladesh's people and all its Biharis, also knew the people of Mirpur are desperately hungry.

"Please save me," one Bihari, who knew the majors, said "I must leave this place. I am ready to go now." He broke down and wept as he begged the majors to help him.

One of the Indian officers had gone to a Chinese friend of the Bihari's. He had asked whether the Chinese would shelter the Bihari in his home outside Mirpur.

But the Chinese was afraid. "He told me that he cannot help you. He says that because China did not help Bangladesh, he is afraid of the Bengalis and cannot risk hiding a Bihari," the major said.

The weeping man was lost in the gathering crowd. The majors finally managed to drive the jeep out of the crowd and started to leave. At a Bangladesh army checkpost which had been unmanned when they entered, the majors were stopped and questioned.

They lied that the food belonged to two reporters riding with them and it was the reporters who wanted to give it to the Biharis. The Bangladesh sentry told them government food supplies would begin Thursday. "But the people are hungry today," one major remarked.

The sentry ordered the jeep to leave.

Government officials have been saying since Sunday that food supplies are going to be given to Mirpur. But each day, little or no food has been provided.

Some high-ranking men in the government appear to realize now that the Biharis are not armed to the teeth and have no intention of starting a pitched battle with government forces. But that realization has not brought the needed aid for the Biharis.

Prime Minister Sheikh Mujibur Rahman insists that no Bihari is suffering hardship in this country. But almost all the roughly 1.5 million Biharis have collected in camps or communities like mirpur, where they have been living cut off from normal life since Bangladesh was liberated Dec. 16.

Until Tuesday, the government had imposed censorship on cabled news dispatches dealing with the plight of the Biharis and international telephone calls were monitored.

High government officials said the censorship was intended to prevent Bengalis from learning that Biharis were killing Bengalis at Mirpur. However, stories about Bengalis who were killed or have disappeared have filled local newspapers. Stories dealing with the hunger and misery of the Bihari community have been suppressed.

"Why are you so interested in Mirpur?" a high government official asked a group of newsmen last week. He suggested that reporters should also write about the large Bengali minority remaining in Pakistan and unable to come to Bangladesh.

Rather than preventing news of the Biharis from circulating in Dacca, the censorship caused rumors to circulate. Some residents of the capital believe thousands of Bengalis have been killed and others say that unbelievably large numbers of Pakistani army soldiers—up to 10,000—are in Mirpur, armed to the teeth.

The Biharis, Moslems who emigrated to this country between 1947, when Pakistan was created, and the present, from various parts of India, have maintained their separateness in this Benglai land. Many have not learned the Bengali language and there has been almost no intermarriage with Bengalis.

When the Pakistani army began its slaughter of Bengalis last March, the Biharis were not attacked. Instead, many of them collaborated actively with the Pakistani troops and many willingly looted Bengali homes and participated in murders of Bengalis.

Every day, the newspapers and radio here report new details of atrocities committed against Bengalis before liberation. Sheikh Mujib dwelled on the atrocities in his speech

at Calcutta last Sunday and often has said that no nation paid as high a price in blood for its freedom as Bangladesh.

The constant recital of Bengalis' sufferings does nothing to lessen Bengali resentment of the Biharis and almost every observer—Bengali, Bihari or foreigner—believes the Biharis will never be able to live peacefully here. Most Biharis want to live in Pakistan, but Pakistan will have to have its arm twisted before it takes them. When negotiations between India and Pakistan to adjust boundaries and repatriate prisoners of war finally begin, India will be in position to twist arms. However, India has not said that the Bihari problem will be on its agenda.

Unless some foreign powers take an interest in the Biharis, however, they are likely to remain in camps, afraid and hungry for a long time. For they believe they will be killed one by one if they attempt to take up their old jobs and enough have died in the past six weeks to justify their fears.

BHUTTO ANNOUNCES NEW LABOR POLICY

Pakistan President Zulfiqar Ali Bhutto announced a new national labor policy last night, intended to improve the lot of workers.

In a nationally broadcast speech, Bhutto also warned that tough action would be taken against persons stirring up industrial unrest. Pakistan has been beset by a week of troubles including a police strike in Hyderabad and a dockworkers strike in Karachi. A clash between workers at a Karachi strike is called for today to protest alleged mass killings of non-Bengalis in Bangladesh.

Outlining the details of his new labor policy, Bhutto said it would include giving workers effective participation in management; increase their share in profits; introduce a system of shop stewards; streamline the procedure for airing grievances and help workers find housing.

Meanwhile, the vice president of Pakistan, Nurl Amin, was accused in Bangladesh along with 14 other persons of collaborating against the Bengali people and has been directed to appear before a magistrate before Feb. 22.

Amin, who quit then-East Pakistan before the outbreak of the Indo-Pakistani war, would forfeit all his property in Bangladesh by not appearing, an official directive stated.

In New Delhi, the heads of the Japanese and Cuban diplomatic delegations there informed the chief of the Bangladesh mission that their countries had decided to recognize the new nation.

And in Dacca, a DC-3, the only aircraft of Bangladesh Biman, the country's commercial airline, crashed at the airport, killing all five members of the crew.

[From the Washington Post, Jan. 11, 1972]

BIHARIS FEAR BENGALI REPRISAL AFTER INDIAN TROOPS GO HOME

(By Lewis M. Simons)

MOHAMMADPUR, BANGLADESH.—"What will happen to us when the Indian army leaves?—We will die. We cannot become Bengalis."

The frightened Bihari businessman who made this fatalistic assessment of his people's chances for survival in Bangladesh succinctly expressed the fears of more than 1 million people who have become prisoners in their own homeland. As supporters of a United Pakistan during the nine bitter months of the Bengali fight for independence, the Biharis have been branded collaborators. They believe they are all marked for death.

For three weeks, since the surrender of Pakistani forces to the Indian army in Dacca, the Biharis have been blockaded by terror—real and imagined—in effectively sealed-off ghettos.

Companies of Indian troops patrol the ghettos, holding back vengeful Bengalis seeking reprisals for Bihari crimes—real and imagined.

Bt the Indians will not stay in Bangladesh indefinitely. And this realization strikes chillingly and deep among the occupants of Mohammadpur, Mirpur and the Adamjee jute mill, the three Bihari enclaves.

LACK OF MONEY

For the moment, their deprivations are principally economic. A foreign visitor to the three colonies is immediately besieged by inhabitants complaining bitterly about their lack of money.

"We cannot go to our offices to get our back pay," said a middle-aged man who had been a chief clerk in an East Pakistani government bureau. "We cannot go to our banks to withdraw our money," protested another, the owner of a clothing shop in Dacca.

If East Pakistan had a semblance of a middle class, the Biharis undoubtedly formed its backbone. They were the shopkeepers, the managers, the engineers, the school teachers.

As they see it, they worked hard for their positions and for the better clothing, the neat suburban houses and occasional automobiles they were able to buy.

"We are not a lazy people," said a 23-year-old student, Rezaur Rahman Faiyaz. "We are not beggars. And they hate us for that."

But as many Bengalis see it, including a number of the educated class, they came by their riches through opportunistic switching of allegiances. "During the Raj they played up to the British said a young Bengali college professor. "Then it was the Indians and after partition the Pakistanis. Now it is Bangladesh. But it is too late."

The Biharis, too, sense that it is too late. When their plight was first discovered by Western newsmen in the days immediately after the Pakistani surrender, they emphatically declared their allegiance to Bangladesh and ran up flags of the new nation over their homes. But the pretense has ended.

"None of us wants to stay," said Dr. Mohamed Khalid, a physician who has lived in Mohammadpur since the partition of India in 1947. Khalid said at least 75 per cent of the nearly 1.5 million Biharis in Bangladesh would go to West Pakistan if the government here would release them. The rest would return to Bihar, the Indian state of their origin.

But their chances of getting out of Bangladesh, in the first place, and being admitted to either Pakistan or India, in the second, are slim. Bangladesh leaders have proclaimed that the new state would be a secular one, unlike Pakistan which was based on the Islamic religion. Although the Biharis are Moslems, they differ from the Bengalis in that they speak a different language, Urdu instead of Bengali, and have different cultural strains in their religion. "Our Islam is pure," said M. A. Latif, a resident of Mirpur. "The Islam of the Bengalis has been influenced by the Hindus."

Latif, 24, is employed by the U.S. Aid Mission in Dacca. He has appealed to the mission to help get him and the rest of the Biharis into Pakistan. "But my boss told me it involves the governments of the United States, India, Pakistan and Bangladesh," he said, "And the chances are not good."

The Biharis present the Bangladesh government with an embarrassing dilemma. If they remain in the country after the Indian army pulls out, the chances of reprisals against them are high. The publicity from further atrocities in this blood-soaked land could do only harm.

On the other hand, if they were to be expelled, assuming either India or Pakistan would accept them, this would make the claim of a free and open society a joke.

The Biharis and the Indian commanders assigned to protect them are banking on Sheikh Mujibur Rahman to resolve the problem. Mujibur is believed to be the only person who could order the Bengalis to back down, and have any chance of being obeyed. "I believe the sheikh will put it all right," said Maj. Ajit Singh Mahal, the Indian Guards officer in charge of security at Mohammadpur.

Mahal, a tough, spit and polish Sikh, complained that he is constantly harassed by Mohammadpur residents worried about their financial affairs. At one point during a prolonged appeal in his field office by a prosperous looking businessman dressed in gray pinstripes, Mahal rose to his feet and without a word strode into the lavatory, locking the door behind him.

"It's the only way to get rid of them sometimes," he said with a sheepish grin upon emerging a few minutes later. "They are great whiners."

But the major is not entirely without sympathy for the Biharis. He conceded that occasional killing and looting still went on inside Mohammadpur, despite vigilence of his troops. "They are certainly in an undesirable position," he said. "Most of them are used to a high standard of living and conditions here are difficult."

Yet, compared with the wretched conditions of the 10 million Bengali refugees who fled to India under the guns of the West Pakistani army and the 20 million refugees within Bangladesh who have been escaping from one village to another in fear and desperation, the plight of the Biharis loses much of its significance.

The regular residents of Mohammadpur and Mirpur still live in their own homes. Many say they have taken in friends and relatives who have poured into the two principal Bihari colonies from outlying districts. The majority of outsiders, however, are housed in refugee camps set up in school buildings, town halls and other public buildings. The government has provided basic food supplies and a small amount of packet money, and the Indian army and the International Red Cross are providing medical attention to the 12,000 refugees at Mohammadpur and the 15,000 at Mirpur.

Similar programs are being carried out at the Adamjee jute mill, a huge walled-in factory town now housing some 30,000 Biharis and other non-Bengalis.

About half of the occupants are mill employees and their families. The rest moved in when Bengali workers fled from the Pakistani army. Once the mill reopens, the government will be faced with the difficult task of reinstating the legitimate workers and getting them to work in peace with the non-Bengalis who belong there. Maj. R. Kanwar, the Indian officer in charge of the mill's security, said the government has supplied "subsistence level" food and the army is helping "the desperate cases."

Despite frequent and loud complaints that they are starving to death, a thorough tour of all the camps disclosed no visible signs of starvation. The chief physical ailment at the camps, according to an Indian army doctor at Mohammadpur, is malnutrition, resulting from lack of protein. "But you must bear in mind that many of these people suffer from malnutrition all the time," the doctor said. "They have no idea what a proper diet is".

Cholera, which flared briefly at several of the installations, has apparently been halted and Red Cross-supplied innoculations are being administered daily. Questioning revealed that fewer than a dozen persons have died of cholera.

So far, the most widespread ailment is not physical at all, but mental. "Most of these people are suffering from deep depression," said the army doctor at Mohammadpur. They need some assurances that all is not lost.

Maj. Mahal, the Mohammadpur commandant, said the responsibility for this lay with the Bangladesh government. "I have appealed to them repeatedly to let high officials here assure them. But they do not come."

INDIA SAYS SHE IS WEIGHING TRIALS OF PAKISTANI TROOPS

(By Sydney H. Schanberg)

NEW DELHI.—The Indian Government said tonight that it would consider the holding of war-crimes trials of Pakistani military personnel charged with "heinous crimes" in East Pakistan.

The Indians—to whom the Pakistani forces in East Pakistan surrendered Dec. 16 after the two-week war there—had indicated earlier that they would go along with war-crimes trials of civilians who had collaborated with the Pakistani Army forces in the East. But this is the first time she has talked about such trials for members of the Pakistani forces themselves.

Foreign Secretary T. N. Kaul was quoted as having said this evening, at a briefing that was not open to foreign newsmen, that New Delhi would consider any request by the Bengali secessionist government to try military personnel "for any heinous crimes" committed outside the performance of their duty.

Mr. Kaul's remarks were reported by The Press Trust of India, a Government-controlled news agency, whose representative was present.

Under the usual rules for Mr. Kaul's briefings, his remarks cannot be attributed to him, but must instead be identified as having come from "official sources" or "official circles." The Press Trust of India said that the usual rules applied at tonight's briefing, and its report cited "official sources." Independent Indian sources disclosed however, that it was Mr. Kaul who had given the briefing.

GENEVA CONVENTION CITED

According to the news agency's report, Mr. Kaul said that while India took responsibility under the Geneva Convention for the protection and repatriation of the approximately 100,000 surrendered Pakistani regulars and paramilitary personnel, in his view the convention did not provide soldiers with immunity from prosecution for atrocities and other such crimes, unless they were committed under orders, in the performance of duty.

The Foreign Secretary said, according to the agency's report, that it was up to the Bangladesh government to do the investigating and to turn over any evidence of such crimes to the Indian Army.

The news agency report did not make clear who might try the accused Pakistani soldiers, but the implication was that it would be the Bengali administration.

Mr. Kaul said it was expected that the Bangladesh government would bring its charges against the Pakstani troops expeditiously, so that repatriation would not be held up.

Mr. Kaul's briefing today was arranged by invitation—several Indian newsmen were called by telephone and asked to attend. No representatives of foreign news organizations were informed.

The Foreign Secretary's remarks seemed to run counter to the spirit of the promises given by India's army commander, Gen. S. H. F. J. Manekshaw, in his call Dec. 15 to the Pakistani troops to surrender.

In that message, addressed to Lieut. Gen. A. A. K. Niazi, the Pakistani commander in East Pakistan, General Manekshaw repeated a pledge "that I would guarantee safety of all your military and paramilitary forces who surrender to me in Bangladesh and complete protection to foreign nationals, ethnic minorities and personnel of West Pakistan origin, no matter who they may be."

"DIGNITY AND RESPECT" PLEDGED

"I give you my solemn assurance," he said, "that personnel who surrender shall be treated with dignity and respect that soldiers are entitled to and I will abide by the provisions of the Geneva conventions."

There was no hint in General Manekshaw's surrender call that the Indian Army might hand over either civilian collaborators or Pakistani military personnel to the secessionist regime for war-crimes prosecution.

However, evidence of wide-scale atrocities and massacres by Pakistani troops and collaborators against the Bengali population has been confirmed by foreign diplomats and other independent observers in East Pakistan. Diplomats generally agree that hundreds of thousands of Bengalis were killed during the nine months of military repression, which began last March in an attempt to end the Bengali autonomy movement.

The Bengali desire for revenge is running extremely high, and the Indian authorities may view the holding of some war-crimes trials as a way of satisfying the public passion for retribution.

SENATE RESOLUTION 283—SUBMISSION OF A RESOLUTION AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF THE ANNUAL REPORT OF THE JOINT ECONOMIC COMMITTEE

(Referred to the Committee on Rules and Administration.)

Mr. PROXMIRE submitted the following resolution:

S. RES. 283

Resolved, That there be printed for the use of the Joint Economic Committee three thousand additional copies of its report on the January 1972 Economic Report of the President.

ADDITIONAL COSPONSORS OF RESOLUTIONS

SENATE RESOLUTION 275

At the request of Mr. STEVENS, the Senator from Oklahoma (Mr. BELLMON) and the Senator from Washington (Mr. MAGNUSON) were added as cosponsors of Senate Resolution 275, authorizing Senators to hire interns.

SENATE RESOLUTION 281

At the request of Mr. PELL, the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of Senate Resolution 281, expressing the sense of the Senate that the U.S. Government should seek the agreement of other governments to a proposed treaty prohibiting the use of any environmental or geophysical modification activity as a weapon of war, or the carrying out of any research or experimentation with respect thereto.

CONTINUATION OF AUTHORITY FOR REGULATION OF EXPORTS—AMENDMENT

AMENDMENT NO. 1076

(Ordered to be printed and to lie on the table.)

Mr. TAFT submitted an amendment intended to be proposed to the joint resolution (S.J. Res. 218) to extend the authority conferred by the Export Administration Act of 1969.

ADDITIONAL COSPONSOR OF AMENDMENTS

AMENDMENT NO. 955

At the request of Mr. STEVENSON, the Senator from Florida (Mr. GURNEY) was added as a cosponsor of amendment No. 955 intended to be proposed to the bill (H.R. 1), the Social Security Amendments of 1972.

AMENDMENT NO. 1048

At the request of Mr. STEVENS, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of amendment No. 1048 intended to be proposed to the bill (S. 3161) to protect marine mammals; to establish a Marine Mammal Commission; and for other purposes.

ADDITIONAL STATEMENTS

FOREIGN "DUMPING"

Mr. TAFT. Mr. President, I recently had the opportunity of examining material prepared by the American Chain Association, regarding the adverse effects that foreign "dumping" is having on their industry.

The "dumping" that has taken place in this country comes primarily from Japan. The Japanese Government encourages export shipments to the United States by permitting formation of export cartels through the Ministry of International Trade and Industry. Further, various tax shelters are given to Japanese firms involved in export business and special reduced ocean freight rates are provided for shipments to the United States.

The American chain industry has not been placed in an unfavorable position by unproductive work rules or lack of modern equipment and technology. In fact, just the opposite is true in the industry. During the last 5 years, the seven U.S. roller chain manufacturers have spent over $19 million on plant and machinery alone. This figure represents 4 percent of the total sales for this 5-year period and amounts to approximately all of the after-tax profits of these firms. The industry has, in addition, spent millions of dollars on tooling, manufacturing engineering, systems engineering, operator training, working condition improvements, and safety. Yet already the American chain industry has lost approximately 30 percent of the U.S. market and projections are for even greater losses in the future. Additionally, 1,500 industry jobs have been lost directly as a result of "dumping" from foreign competition. Thousands of jobs may be lost if corrective action is not taken by the Congress.

I am not advocating protectionist trade policies, or legislative action such as the Hartke-Burke bill; but I do believe that reasonable and equitable policies must be developed to insure fairness in international trade. Antidumping procedures are complex, time-consuming, and costly. The Treasury Department requires at least 12 months to process a complaint and the Tariff Commission needs a minimum of 3 months. Our "dumping" laws quite often fail to discourage the offshore manufacturer from taking his chances, as violation does not result in penalties being levied.

I believe that Congress should review our antidumping laws and our trade policies specifically with the Japanese. Free trade certainly should prevail, but this trade must be fair and equitable to both parties.

PROPOSED STANDARDS AND PROCEDURES FOR WATER RESOURCE PROJECTS

Mr. STENNIS. Mr. President, on Wednesday, March 15, the senior Senator from West Virginia (Mr. RANDOLPH), chairman of the Committee on Public Works, discussed the Water Resource Council's proposed standards and procedures. Following his remarks, the senior Senator from Louisiana (Mr. ELLENDER), chairman of the Committee on Appropriations, also discussed the proposed standards and procedures.

I believe these discussions are very timely. They have performed a real service to the Senate in focusing attention on the problem of the future development of our water resources.

The standards and procedures as proposed will have a very serious impact on future planning by the Corps of Engineers, the Bureau of Reclamation, and the Soil Conservation Service. Not only that, but on projects of these agencies which have been authorized for 5 or more years and on which construction or other similar activity has not commenced. A preliminary review indicates that better than 50 percent of the projects in this category would not show economic justification under the proposed opportunity cost of money theory for determining the discount rate for economic evaluation.

Congress has delegated to the Water Resources Council the responsibility of establishing standards and procedures for evaluation of water resource projects. Such standards and procedures would be implemented upon approval by the President.

The Council established a task force to develop and test the new procedures. After several years' study the task force report was released. That report appears to be a step in the right direction and deserves to be implemented.

The Office of Management and Budget, although not a member of the Council, has insisted on a number of changes which are inconsistent with existing statutes.

I am certain that Congress, in delegating authority to the Council, intended that the Council would develop the standards with the framework of existing law. The original task force recommendations, as far as I can determine, do comply with the existing statutes.

I expect to submit a statement to the Water Resources Council urging adoption of the task force report as originally prepared. I urge other Senators to communicate their views on this important matter to the Council.

THE CONSUMER PRODUCT SAFETY BILL

Mr. COTTON. Mr. President, pending in the Committee on Commerce is S. 983, the bill to establish a Consumer Safety Agency. One important issue in the bill, which is a subject of considerable controversy, is its proposed administration by a new independent agency and whether it should include the present Food and Drug Administration which is now in the Department of Health, Education, and Welfare. The bill would create a separate Consumer Safety Agency. The administration, and more particularly the Secretary of Health, Education, and Welfare, is opposed to this feature of the bill.

As of now, I am not at liberty to disclose the action of the committee or to indicate the position of any member except myself. I am opposed to creating another independent agency and believe that consumer safety legislation should remain as a part of the health programs of HEW.

Health, Education, and Welfare Secretary Elliot L. Richardson recently released a statement setting forth his reasons for opposing the independent agency. His observations are brief, clear, and, to my way of thinking, logical. I believe it would profit the Senate to read his statement. Therefore, I 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 SECRETARY ELLIOT L. RICHARDSON, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The Consumer Product Safety Bill, S. 983, which would establish a separate consumer safety agency, would actually sell the American consumer a phony bill of goods by moving away from, rather than toward, greater product safety for the consumer.

This bill for a separate agency is regressive. It would deal the cause of consumer safety a crushing setback.

It would abandon the field to exploiters of the consumer by destroying existing mechanisms for regulation. It would create a serious vacuum—one lasting as long as three years—into which the exploiters could move while the new agency is being set into motion. It would have an adverse impact on the public health and the public purse.

This Administration has submitted its own strong product safety legislation to the Congress along with a letter from the President committing HEW to establishing within the Department a new consumer safety administration which would have an upgraded Food and Drug Administration as its core.

Yet, to my complete disbelief, the Senate Commerce Committee seems to have chosen to counter this strong proposal by adding to it a disruptive reorganization which threatens to harm the health concerns of consumers.

Instead of helping consumers, the regressive bill now before the Senate Commerce Committee moves counter to this with its load of fatal flaws:

It would slow down the increasing momentum the FDA and HEW have been building in consumer safety.

It would destroy vital relationships between the FDA's food, drug, cosmetic, and product safety regulatory processes and the other health responsibilities of HEW.

It would require duplication of health accident and injury data collection which is now centralized in HEW.

It would inevitably follow the path of other so-called independent regulatory agencies which have not fared as well in budget terms as those within Departments of the Executive Branch.

It runs counter to the recommendations of numerous bipartisan national commission studying Federal executive organization in recent years, all of which have recommended consolidation, not further fragmentation, of Federal agencies and departments.

Public health is a prime responsibility of HEW and this will not change. FDA, as part of the Public Health Service, now draws on the total health resources of HEW. A separate agency would find such wide ranging support impossible to acquire.

HEW is seeking a 70 percent increase in the FDA budget for the coming fiscal year—the largest increase for this agency in its history. For the first time, the FDA will have the people and the money it needs to do its job.

FALSE ECONOMY

Mr. CHURCH. Mr. President, I am disturbed by the evidence of false economy that I have recently come across in connection with next year's Federal budget beginning on July 1. I have been informed that personnel funds for the U.S. Forest Service will require that the Forest Service decrease the number of people now employed, and will prevent the hiring of temporary help during the summer season when much of the work is done on our National Forests. It has been estimated that the budget for the Forest Service in fiscal year 1973 will require the reduction in the work force of close to a thousand employees.

I find this economy both strange and disturbing. At a time when the public is calling for better management of our forest resources, when the public considers the environment to be a most important problem with which we have to deal, this administration chooses to cut back on the number of foresters available to estimate timber sales and the number of temporary forest employees available to perform thinning, reforestation, and other forest improvement tasks.

I, for one, believe that we can do a better job in managing Federal timber lands. Yet, constructive and environmentally sound forestry, practiced by professional foresters, can only be obtained when there are enough U.S. Forest Service personnel to do the job.

I call on Secretary of Agriculture Butz to revise his budget estimates for fiscal year 1973 and request enough money to give the United States a quality timber management program. Failure to replant unused forest land, inadequately prepared timber sales, and tardy timber sales can often be traced to the lack of personnel. Let is not continue this shortsighted practice.

I ask unanimous consent that an article written by A. Robert Smith, referring to the Forest Service's personnel problem, and published in the Lewiston Morning Tribune on February 7, 1972, be printed in the RECORD.

I also ask unanimous consent that a letter on this subject from Mr. Carl Moore, president of the Clearwater Economic Development Association, be printed in the RECORD.

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

THE SMITH REPORT: FEWER TIMBER SALES

(By Robert A. Smith)

WASHINGTON.—The Forest Service estimates that it will be compelled to reduce production of timber from the national forests by about 10 per cent during the coming fiscal year because of an order issued by President Nixon.

The order, issued last August, requires all

federal agencies to reduce their manpower by at least 5 per cent by July 1, 1972.

As a consequence, the Forest Service will be forced to operate with some 3,000 fewer employes during the fiscal year that begins next July 1, according to Paul Neff, head of the agency's timber management division.

The impact of the Nixon order could be even more severe on timber production in future years, Neff indicated, but he declined to estimate how great the reduction might be.

Neff met with regional foresters from all regions and Alaska at Portland recently to "study the problem of doing a quality job with reduced numbers of people," he reported.

"We are going to have a very difficult job of meeting our commitments with reduced personnel," he added.

Neff noted that the Forest Service office at San Francisco had invited its lumber company customers to meet with Forest Service officials to see what could be done in a cooperative manner to keep production from lagging, but with a forecast similar to his that manpower cutbacks will inevitably impair future timber sales.

LOWER CEILING

The Forest Service, due to Nixon's order, has been given a manpower ceiling of 20,575 full timber permanent employes to which it must adjust by July 1, a reduction of 869 from its June 30, 1971, complement of 21,444.

In addition, 2,100 temporary and part-time employes must be dropped or not hired this coming year. Neff said this would include timber cruisers, scalers, surveys crews, summer fire crews and men hired for slash disposal, thinning, reforestation and other timber stand improvement work.

To achieve these reductions, the Forest Service simply won't replace men who retire or quit or transfer to other agencies, Neff said, in hopes that attrition will fulfill the objective of the president's order and not require layoffs on July 1.

"This will affect Forest Service programs across the board," he said. "The big impact is in the regions where most of the employes are and where most of the work is done. We are losing people of great experience."

TIME LAG

The reason the impact of the cutbacks may be more severe than a 10 per cent production cut in future years is that there is a time lag of from three to five years between the decision to offer a certain stand of timber and the actual sale.

'We take aerial photographs, survey the area, design the * * * "Troads, the timber has to be marked and cruised, then the sale must be reviewed from an environmental standpoint, and for its effect on wildlife, etc.," Neff explained. "On a big sale this could take five years."

The cutback in manpower will simply slow down the process by which new timber sales can be prepared, unless manpower is shifted from other Forest Service programs into timber management.

"We could short other programs and put people into timber but this gives us a black eye," said Neff, indicating he doubted this was likely.

"We want to be able to put our timber on the market but we can't do it and protect the environment without sufficient personnel," he added.

The proposed budget for the Forest Service starting July 1, as outlined by Nixon for Congress last month, showed a modest increase of $5 million for forest land management—but apparently this will be more than eaten up by pay raises for those employes who survive the manpower reduction order.

CLEARWATER ECONOMIC DEVELOPMENT ASSOCIATION, INC.,
Moscow, Idaho, March 3, 1972.

Senator FRANK CHURCH,
Senator Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: I have been instructed by the Board of Directors of Clearwater Economic Development Association to write you regarding the relationship between economic development in our District, the increased environmental protection needs requirements, and reductions in personnel for harvesting timber on Forest Service lands.

We are in agreement with those supporting greater efforts to protect our environment. It is one of our most treasured assets and we must continue to keep it and improve it in northern Idaho.

We also believe it is important to harvest the extensive and valuable forest resources when their time comes due in the forests managed by the U.S. Forest Service. The Timber Resources Review report of a few years ago stating approximately 40% of the timber grown in Idaho each year is lost to insect and disease is of major concern to us since we know a large part of this loss occurs on the U.S. Forest Service land within the Clearwater Economic Development District. The vast areas of mature, overmature, and damage prone forest stands needs a harvesting treatment to avoid major loss of this vital resource both now and in the future.

In the face of these conditions the recently announced cuts in staffing of the local National Forests which are already being reflected in disastrous reductions in timber available for our forest industries is highly distressing. It is apparent that the mandates of Congress to implement environmental quality legislation and at the same time maintain a program of sound forest management are diametrically in opposition if staffing is not maintained for their accomplishment. This conflict is resulting in tremendous loss to both the United States in dollars and our region in economic and environmental health. From the viewpoint of an organization whose purpose, supported by Federal policy and financing, is to support the development of this rural area it appears a requisite that adequate staffing of the local National Forests is a necessity.

Sound investment of public money, protection of public resources and welfare, and maintaining necessary industry, tax base, and communities all seem to dictate that proper staffing of our National Forests be given first priority consideration.

It is our sincere hope that you might be able to successfully work to accomplish the changes which are so seriously needed to protect the people of our District and its very valuable resources and the great financial loss occurring to the United States.

Very truly yours,

CARL C. MOORE,
President.

HON. KENNETH RUSH, FORMER AMBASSADOR TO GERMANY

Mr. ALLOTT. Mr. President, the Washington Post of Sunday, March 19, contains a fine article reviewing the distinguished service of Kenneth Rush while Ambassador to Germany.

According to the Post headline, Mr. Rush, who is now Deputy Secretary of Defense, "registered surprising success" while Ambassador. I would only comment that his success was not surprising to those of us who know him.

Mr. Rush has now stepped into the spot recently vacated by another good friend of mine, David Packard. One can only marvel at the Nation's good fortune in being served so well by such dedicated men.

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

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

EX-U.S. AMBASSADOR TO BONN REGISTERED SURPRISING SUCCESS

(By John M. Goshko)

BONN, March 18.—The ambassador's suite in the U.S. embassy sprawling alongside the Rhine has been empty for three weeks, and the Bonn cocktail circuit is now trying to guess the name of the next occupant.

Amid all the speculation, there is one point on which everyone seems agreed: Whoever does come is going to be measured for a long time against the man who sat in the ambassador's office for the preceding two and a half years.

He is Kenneth Rush, a former president of New York's Union Carbide Corp., who left corporate life in 1969 to begin a new career in government service. Now, Washington is about to get its first good look at him as he takes on the job of deputy secretary of defense.

Rush came to Bonn under circumstances that had this capital prepared to be unimpressed by "der Amerikansche manager." But, by the time of his departure, he had earned a prominent niche in the galaxy of high-powered diplomatic talent that Washington has had here during the post-war period.

The landmark of his tenure was the four-power Berlin agreement, cited by Secretary of State William P. Rogers as one of the Nixon administration's major achievements. Rush was the principal ball-carrier for the Western allies during the 17 months of arduous negotiation leading to the agreement.

French Ambassador Jean Sauyagnargues, one of the other Berlin negotiators, summed up Rush's performance by remarking: "He's a big-league talent." And another diplomat added: "The Berlin agreement is Rush's monument. More than anyone else, he's the man who did it."

Outwardly, the white-haired, 61-year-old Rush does not seem the sort of man to inspire such accolades. Soft-spoken and courteous almost to the point of diffidence, he frequently gives people expecting to encounter a hard-charging businessman an impression of country-boy innocence.

NAIVE BUT INFLUENTIAL

The Germans, who seemed to like him immensely, were never really able to figure him out. More than one Bonn official has come away from an encounter with Rush asking, "Can a man who seems too naive really be so influential?"

The answer, as the Berlin agreement demonstrates, apparently is yes. Indeed, Chancellor Willy Brandt's government was so delighted with the result that West German diplomats lately have taken to asking American correspondents wistfully whether Rush might some day become secretary of state.

It was not always that way. At the same time, Rush was named to the Bonn embassy, the West Germans, accustomed to such heavy-hitting predecessors as Lucius Clay, John D. McCloy, David Bruce and George McGhee, tended to dismiss him as simply not in the same league.

None of the omens looked very good. Rush's immediate predecessor, Henry Cabot Lodge, had spent only a year in Bonn and had acquired a reputation for using the embassy as a place to hang his hat between visits to Europe's leading golf courses. Then, President Nixon compounded the trouble by

leaving the ambassadorship open for six months before coming up with the unknown Rush.

To top things off, Rush, in his Senate confirmation hearing, airily dismissed his lack of German with the remark that most of the people he would be dealing with spoke English. Summing up the prevailing German view, the influential weekly, Die Zeit, sniffed: "The only qualification he lacks as a diplomat is diplomatic experience."

The one person not bothered by his apparent lack of credentials was Rush himself. As he would later remark: "I managed to become president of Union Carbide, and I hadn't studied any chemistry either."

"Besides," he added, "I've been a lawyer all my adult life, and a lawyer is always involved in negotiation, always being thrust into entirely new situations where you have to acquire an instant expertise."

TAUGHT NIXON

He also had another qualification that would prove very important. Back in the 1930's, when he had served briefly as an assistant law professor at Duke University, one of his students had been a young fellow named Richard M. Nixon.

The relationship had endured. Rush, it soon became apparent, had the "special access" coveted by every ambassador. This, coupled with his obvious inner drive and his negotiating skill, quickly made Bonn forget his inability to speak German.

The way in which he put it all together became evident during the Berlin talks. Those familiar with the secret bargaining say that Rush quickly emerged as unofficial captain of the Western team by demonstrating that he could spar across a conference table with a skill fully equal to that of the Soviet Union's old pro, Ambassador Pytor A. Abrasimov.

And, when the talks seemed in danger of foundering, Rush went directly to Mr. Nixon and convinced him to have a talk with Soviet Foreign Minister Andrei Gromyko. The result, it later became known, was to put the negotiations on the track to an agreement where the West won more concessions than anyone originally thought possible.

While the Berlin accord was Rush's most obvious success, many people here attach even greater importance to his work in helping to guide the German-American relationship through a potentially difficult transition.

EYEBROWS RAISED

Shortly after Rush's arrival, Brandt led his Social Democrats to power for the first time in the history of the West Germany. The new chancellor immediately embarked on a bold policy with overtures of friendship to Eastern Europe that raised eyebrows about whether Bonn was moving away from its traditional dependence on Washington.

To complicate matters, a lot of people in the Social Democratic Party had the feeling that the United States had slighted them by favoring the Christian Democrats in power the preceding 20 years. (To this day, many rank-and-file Social Democratic deputies in the Bundestag will not accept an invitation to the American embassy.

The situation was fraught with potential for friction between the two allies. And many predicted that Rush, a dyed-in-the-wool Republican representing conservative government, would never be able to establish a rapport capable of bridging the gap with the Socialist Brandt.

Yet, the two men confounded all the predictions. After satisfying himself that Brandt's allegiance to the Western alliance was constant, Rush became the individual most responsible for turning Washington's initial suspicion of Brandt's Eastern policy into solid support for the chancellor's initiatives.

The gratitude that this earned him from Brandt and the Social Democratic leadership was underscored only a few days ago. To the surpise of almost everyone, Herbert Wehner, the terrible-tempered parliamentary leader of the Social Democrats and a man regarded by many as anti-American, rose in the Bundestag to deliever an emotional tribute to Rush for "his services to Germany."

One American foreign service officer who worked under Rush puts it this way: "It could very well be that the Brandt government will someday be remembered as the one that cut the cord of America's post-war tutelage of the West Germans and moved them toward reasserting their independence in foreign policy. In a situation like that, the old proconsul types like Clay and McCloy could not have functioned without kicking up a lot of trouble and resentment.

"Rush was precisely the right guy for the time—a low-key type who doesn't throw his weight around, but able to identify the duality of German-American interests and keep them from running off the track."

"I don't want to overestimate his role," he concluded, "but if Ken Rush hadn't been here things could well have moved in a way where you would never have seen that picture in the newspapers last December of Willy Brandt and Richard Nixon glad-handing each other in Key Biscayne."

RENEGOTIATION OF AIR RIGHTS TREATY WITH IRISH GOVERNMENT

Mr. PELL. Mr. President, I ask unanimous consent to have printed in the RECORD a communication which I have sent to the Chairman of the Civil Aeronautics Board concerning the desire of this administration to force the Irish Government to renegotiate its treaty with us regarding air rights.

The communication is self-explanatory, but I should like to point out what should be obvious: That this is not the time for our Government to take such unilateral action against the sadly troubled Irish Republic. We are all aware of the tragedies which have taken place in Londonderry. It would seem that the British Government has not been able to resolve the many injustices which have been visited upon the oppressed Catholic minority in the North.

History should be clear in this regard, for after the Easter Uprising of 1916, when the seven signatories of the Proclamation for the Provisional Government of the Irish Republic, who were Thomas Clarke, Sean MacDarmanda, P. H. Pearse, James Connolly, Thomas MacDonagh, Eamonn Ceannt, and Joseph Plunkett, were all shot in Dublin by a British firing squad, Roger Casement, who was also sentenced to death, stated:

> If English authority be omnipotent, Irish hope exceeds the dimensions of that power, excels its authority and renews with each generation the claims of the last. The cause that begets this indomitable persistency, the faculty of preserving through centuries of misery the remembrance of lost liberty, this surely is the noblest cause that men ever strove for, ever lived for, ever died for.

Nothing could be said more succinctly and eloquently than these words. Therefore, at this time, I make a plea that these people, both in the North and South, be given an opportunity to resolve their differences and that this Government of ours should not add to their misery in the matter of economic pressures concerning air rights.

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

U.S. SENATE,
Washington, D.C., March 17, 1972.

Hon. SECOR D. BROWNE,
Chairman, Civil Aeronautics Board,
Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to you pursuant to Rule 14 of the Rules of Practice of the Civil Aeronautics Board regarding Docket No. 23976.

It is my understanding that on August 18, 1971, the Department of State notified the Government of Ireland that, effective August 18, 1972, the right of Aerlinte (Irish Airlines) to serve New York would be terminated. I find this action by the State Department to be most unpalatable and have told them so. First of all, it seems to me to constitute the pursuit of a policy of confrontation in the conduct of our foreign affairs. Such a policy, I think, is particularly inappropriate for a large and powerful nation to follow, vis-a-vis a comparatively small and weak nation, moreover, which is suffering from particularly troubled times.

This unilateral action of the State Department cannot be effective. however, without action by the Civil Aeronautics Board in this proceeding. I respectfully urge the Examiner and the Board to take no such action.

Before the Board can amend the foreign air carrier permit held by Irish Airlines, it must find—pursuant to Section 402 of the Federal Aviation Act—that such action is "in the public interest". In my view such action would be *adverse* to the public interest for the following reasons:

First, as for centuries now Ireland and the United States have enjoyed extremely warm and amicable relations. Literally millions of Americans look to Ireland as their ancestral homeland, and many other millions have been enriched by the culture and traditions brought from Ireland by her sons and daughters who have migrated here. The termination of the right of Irish Airlines to serve New York can only be viewed by the Government and people of Ireland as a stunningly unfriendly act, which is bound to embitter our international relations. Moreover, it is a particularly ill-timed act. All of us are fully aware of the severe problems faced by Ireland at the moment, and it is thus a particularly inappropriate time for the United States to add to those problems by depriving Ireland's airline of its principal source of traffic and revenue.

Secondly, the State Department proposed to amend the permit of Irish Airlines because (according to Board Order 71-11-39) of a failure to obtain an "equitable balance" in the Agreement between Ireland and the United States. I am fully behind the proposition that our United States carriers must receive equitable treatment from foreign nations, but I think such equity must be viewed in proper perspective. It must be remembered that our carriers simply could not have begun to operate transatlantic service with land-based aircraft after the second war if they had not been permitted by Ireland to fly into Shannon. This factor must be given very great weight when "equity" is judged.

Furthermore, it must be remembered that for many years—from 1945 until 1958—our United States carriers did not have any competition from an Irish carrier between the United States and Ireland. This factor, too, must be given great weight in judging "equity".

Finally, it must be remembered that three United States carriers serve Ireland while only one Irish carrier serves the U.S. The American carriers have full rights to fly beyond Ireland, moreover, while the Irish carrier has no right to fly beyond the United

States. Taking these factors into account, I see no inequity sufficient to justify what could well be the destruction of the airline of a small and friendly nation.

I urge the Board not to amend the permit now held by Irish Airlines. Failing such a decision, I urge the Board to defer action on this matter until the problem can be solved through further diplomatic negotiation.

Warm regards.

Sincerely,

CLAIBORNE PELL.

THE GENOCIDE CONVENTION: A CASE IN SUDAN

Mr. PROXMIRE. Mr. President, a few short years ago the attention of the world was focused on the country of Nigeria and the bloody civil war for Biafran independence. The atrocities of mass tribal slaughter, hunger, and starvation invoked the horror and condemnation of the civilized world. Nations, service organizations, and private citizens alike poured thousands of dollars and volunteer hours into the relief efforts for victims of the African armageddon. As the communications media and Red Cross arrived, the Biafran civil war became an international cause celebre.

But the incidents of violence, war, and atrocity are far greater than the media coverage can adequately cover. While one incident holds public attention thousands of souls perish in other conflicts throughout the world. One striking example was the long and brutal conflict in the Sudan. For 16 years tribe fought tribe, and whole groups were annihilated in the process. The sensation of Biafra caught the news and world sympathy, but the nightmare of Sudan was no less real. The genocide was no less obnoxious and abhorrent than the genocide of Nigeria.

The time has arrrived when genocide must be outlawed by internationally accepted treaties; when all nations should register their determination to prevent and punish such crimes against humanity. We cannot continue to excitedly decry one case of wholesale slaughter while five more go unobserved and uncontrolled. Outrage is not enough! I urge Senators to ratify the Genocide Convention swiftly and place America on record in opposition to such atrocities.

ANNOUNCEMENT OF POSITION ON VOTE ON CONFERENCE REPORT ON S. 2097

Mr. RIBICOFF. Mr. President, because of illness in my family, I was unable to be present to vote for final passage of the Conference Report on S. 2097, the Drug Abuse Office and Treatment Act of 1972. If I had been present, I would have voted for the adoption of the conference report.

IMPORTANCE OF EXPEDITING BOEING 747 COMMAND POST PROGRAM

Mr. THURMOND. Mr. President, I invite the attention of the Senate to statements made in a press interview Monday, March 20, 1972, by former Deputy Secretary of Defense David Packard.

Secretary Packard made a strong plea for an accelerated program to obtain 747 aircraft command posts as an important aspect of this Nation's nuclear command and the deterrent it projects.

As a supporter of the 747 command post program in the 1972 Defense Department supplemental bill, I believe the Senate and the Congress should weigh carefully the words and warnings by this great American who served his country so well as Deputy Secretary of Defense.

Secretary Packard made it clear that the President's flexibility to respond to an enemy nuclear attack is limited without the advantages these new airborne command posts would offer.

Mr. President, so often I have heard Members of Congress chide the Defense Department for not coming in with a supplemental when conditions required this means of expediting a program.

The Defense Department has presented a 1972 supplemental calling for the 747's, an earlier start on the undersea long-range missile system, and other needed programs. If this supplemental is ignored, then it will be late this year before these programs can get moving. There is no question that the supplemental could be passed early enough to give these programs an important push forward ahead of the regular authorization and appropriation bills.

Mr. President, Secretary Packard's statements on the 747's and other defense matters were reported in the Washington Star of Monday, March 20, 1972, under the headline "Nuclear Command Weak, Packard Warns." I ask unanimous consent that the article be printed in the RECORD.

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

NUCLEAR COMMAND WEAK, PACKARD WARNS

(By Orr Kelly)

The United States might not be able to respond at all to a surprise attack from the Soviet Union because of weaknesses in control over the nation's strategic nuclear forces, according to former Deputy Defense Secretary David Packard.

Packard, who resigned in December after three years as the No. 2 man at the Pentagon, said in an interview here that he had concluded the weakest link in the nation's strategic force was in command and control.

Shortly before he left the Pentagon, he signed an order giving the chairman of the Joint Chiefs of Staff direct personal responsibility over the missiles and bombers of the Strategic Air Command and the missile submarines of the Navy.

He also strongly supported a proposal, now pending before Congress to buy a fleet of large Boeing 747 airplanes to serve as flying command posts for the top military leaders and, possibly, for the President.

"I concluded," he said, "that we really had to move ahead on this on a crash basis."

He was asked if the danger was that the nation might not be able to respond to an attack or that the President might not have sufficient flexibility in response.

"It's the danger that we might not be able to respond at all," he said. "I think we're in good enough shape so that wouldn't happen. But I thought this was such an important aspect of the whole nuclear deterrent that we would be irresponsible if we didn't do everything we could."

Inter-service rivalry "is one reason sometimes the joint chiefs have difficulty making a good decision," he said. "If one of the chiefs feels very strongly about an issue there's no mechanism to override it or the other chiefs simply won't override it."

In one case, he said, the elimination of the Southern Command in Panama was proposed and the chiefs were agreeable—except for the Army.

"There was no reason we shouldn't stand down the SouthCom," he said. "That's an Army Command and the Army held tight on this. And this one went right up to the President. The Army felt it had been cut back too much."

In this case, Packard reported ruefully, the Army won and the command is still in operation.

In another instance, he said "cooperation between the Navy and the Air Force isn't as good as it should be," he said.

The two services have had difficulty agreeing on a proposal that Air Force land-based planes be used to help defend the 6th Fleet in the Mediterranean so the carrier planes can go off on attack missions.

Packard said he was impressed by how well the National Security Council operation under Presidential Adviser Henry A. Kissinger worked to present a wide range of options to the President.

"I'm a great admirer of Henry," he said. "I get along well with him. I like the guy. I don't have any comments about his style of operating. It isn't my style but I consider Henry to be a good friend. I don't go along with all this criticism of him."

But Packard was less complimentary about the State Department's role in decision making.

"As I look back on it," he said, "I think one of the problems in the State Department is that they're not organized as well as they should be to address some of these issues.

"They had teams working on each country. They didn't have, in my view, an organization in which you could see the over-all problem."

At the time of the India-Pakistan war in December, there were complaints that the views of the experts in the State Department did not reach the decision making level.

"We know where the State Department people stood on it," he said. "There wasn't any problem knowing what they thought. But they were looking at this thing in a very narrow context."

Packard revealed that, before the decision to send troops into Cambodia in the spring of 1970, he had come to the conclusion that such a move was necessary if the administration's Vietnamization program was to succeed.

"When I heard the President had made the decision to go all out," he said, "my reaction was, 'Thank God we've got somebody that's willing to stand up to what needs to be done.'"

One of Packard's major jobs in the Pentagon was to try to improve the procurement process. In recent speeches, he has told of his unhappiness when he was told by one company that it had deliberately bid too low to get a contract and of his reaction when another company tried to put pressure on him to make a bad decision by contacting members of Congress.

He refused to name the two companies, but he did criticize the performance of both the Navy and the Grumman Co. in the contract for production of the F-14 fighter plane.

"They bid low on that," he said. "It just kind of gripes me when I come in here and the Navy and Grumman make a big pitch about how they've got this contract right . . . about how you don't have to worry about this contract. And two years later they come in bitching about it."

The company informed the Defense Department it cannot accept any further orders under the contract because it will lose money.

In addition to his duties as board chairman of Hewlett Packard, an electronics firm, Packard now is serving as a board member

for Standard Oil of Calif., the Catepillar Corp. and Trans-World Airlines and will head the Citizens Committee for the Re-election of the President in the San Francisco Bay area.

ANNIVERSARY OF BYELORUSSIAN INDEPENDENCE

Mr. TAFT. Mr. President, March 25 marks the 54th anniversary of the declaration of independence of the Byelorussian people.

Byelorussia was overrun and annexed to the Muscovite Russian Empire in the 16th century. The Byelorussians lived under Russian czarist rule for more than 300 years. In 1917 as the Red army became disruptively involved with its own revolutions, the Byelorussian patriots seized upon the opportunity to break away from the Soviet forces and declared their independence.

On February 19, 1918, the Byelorussian Congress, aided by the military, gained complete control of the government, and on March 25, the people of this brave nation declared Byelorussia a free and sovereign country.

Only a year later their long-awaited liberty was ended by the military takeover of the Soviet Russian state. The Byelorussian Democratic Republic was incorporated as an oppressed non-Russian colony of Soviet Russia.

Today, March 25 is the symbol of the once-fulfilled quest for national recognition and liberty for all Byelorussians. The Americans of Byelorussian descent deplore the autocratic regime in control of their ancestral land. As a free people of a democratic nation, we recognize Byelorussia's deprivation of independence and join her in fervent hope for its eventual restoration.

THE ENERGY CRISIS

Mr. COOK. Mr. President, we have all heard and read much about the energy crisis. On several occasions I have made known to the Senate, both in committees and on the Senate floor, that I was very much concerned over the impact that an energy shortage would have on the Nation. I have urged that sufficient funds and effort be made available to seek out methods for the commercial manufacture of both high and low British thermal unit gas from coal. To insure that ample coal will be available when the manufacturing process is perfected, I have just recently urged the appropriations subcommittee for the Department of the Interior appropriations to make available funds to provide adequate research for the development of technology for the reclamation of surface mined areas. Such research is essential if we are to continue to disturb the land of this Nation by surface mining.

We are all familiar with other programs to provide more gas for the Nation. I cite the importation of liquid natural gas as well as the importation of liquid hydrocarbons for the manufacture of high British thermal unit gas as being two of the most promising. But, Mr. President, I hasten to add that both of these methods as well as the gasification of coal are all several years away and are considerably more expensive than natural gas.

The urgency of the problem is brought home to me when I receive letters from my State which inform me that industry and public interest are suffering because of a shortage of gas. This suffering is note a "next year problem." In many instances small and large industry is being denied expansion because of the lack of an adequate gas supply. Every curtailment means less construction now and less opportunity for new jobs now and will have even more serious impact on the Nation in the future.

The Nation has some 290.7 trillion cubic feet of natural gas in its proven reserve and over 1 quadtrillion cubic feet in its potential reserves. The usage rate last year was about 22 trillion cubic feet. It is evident from these figures that there is plenty of gas in the ground to meet our needs for some years to come. I recognize that a very high percentage of this gas reserve has been committed by the producer to the transporter and in turn to the distributor. These commitments cover a period of 20 to 30 years and although the gas exists, its availability to the consumer cannot be accelerated unless new gas is produced or at least ample assurance given that production will be made to reconstitute the reserve and guarantee sufficient supply to fulfill valid contracts. I believe that the release of reserves and the increase of production could do much to increase the gas supply within a relatively short time range. I submit that new gas is not being found because the producer is unwilling to risk his capital until he can be assured of a reasonable return on his investment.

To this end I have sent a letter with enclosures to the Chairman of the Federal Power Commission which I request be printed in the RECORD. I have requested that the FPC inform me of any action being taken to provide incentive to encourage this producer to explore for new gas fields. I have informed the Chairman that I will be pleased to consider lending my support to any reasonable solution he may offer.

I ask unanimous consent that letters on this subject be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., March 17, 1972.

Hon. JOHN N. NASSIKAS,
Chairman, Federal Power Commission,
Washington, D.C.

DEAR MR. NASSIKAS: The consumption of natural gas in quantities exceeding production has given us all reason to seek ways and means of increasing production. I have followed with great interest the testimony you have given to the Congress as well as your statements in the new media concerning this critical shortage.

As you are aware, I have been most active in urging that ample funds and efforts be made available to develop methods for the commercial manufacturing of both high and low BTU gas from coal. I believe that substantial progress is being made in this area. Unfortunately, even with the most optimistic projection, we cannot expect to have coal gas "on line" before 1978. I am also aware of the various schemes to import liquid natural gas and liquid hydrocarbons to be used to manufacture natural gas. The lead time on these programs is also several years.

The urgency of the problem is brought home to me when I receive letters from my state, such as the two I have enclosed, which highlight to me that the problem is now. We cannot wait several years for the solution. Unless something is done in the very near future to make gas available to the consumer, industry throughout the land will suffer and growth will cease.

I recognize that a very high percentage of the known gas reserves has been committed by the producer to the transporter and in turn to the distributor. These contracts cover a period of 20 to 30 years and although ample gas exists to meet our growing needs, it cannot be made available unless new gas is found to reconstitute the reserve to ensure that at some future date, there will be sufficient gas to fulfill valid contracts. I submit that new gas is not being found because the producer is unwilling to risk his capital until he can be assured of a reasonable return for his investment.

As the well head price determines this return to the producer and since this price is fixed by the Federal Power Commission of which you are Chairman, I should like to know what action is being taken to provide the incentive necessary to encourage the producer to explore for new gas fields. I should also like to be informed of any programs, other than those mentioned in this letter, which are being pursued to increase the amount of gas available to the consumer.

I realize this is a two way street and I assure you that I will be pleased to consider lending my full support to any reasonable solution you may have to offer.

Sincerely yours,

MARLOW W. COOK,
U.S. Senator.

GLASGOW-BARREN COUNTY
CHAMBER OF COMMERCE, INC.,
Glasgow, Ky., March 13, 1972.

Hon. MARLOW COOK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR COOK: The old adage "you don't miss the water until the well runs dry" is applicable to the gas situation in Glasgow and south central Kentucky.

This area is supplied with natural gas by the Western Kentucky Gas Company. They have just announced that they are unable to supply gas in any amount to new industry or for expansion of existing industries. This has delivered a severe blow to Glasgow.

One new industry looking favorably at Glasgow for a new plant location has been refused gas. Three of our largest industries are planning expansions; they are Tyson Bearing Company, subsidiary of SKF Industries, makers of tapered rolling bearings, with a 4½ million dollar expansion program ready to go; R. R. Donnelley & Sons, largest commercial printer in the world, opened a new plant in Glasgow in 1970, and will probably double their plant in the near future, and Gulf-Western, who operates three divisions in Glasgow—P. Sorensen Mfg. Company, Glasgow Industries, and MB Corporation. These three expansions could mean up to 1000 new jobs for Glasgow and surrounding communities—but unless they can get assurance of gas supply, their plans will have to be shelved!

There seems to be two factors that have caused this shortage:

No. 1, the price of gas at the well head.

No. 2, the blocking of off-shore drilling and the pipe line to the north slope of Alaska.

Both of these factors are controlled by the Federal Power Commission and the Department of the Interior, and, as the situation has become critical, not only locally but nationally, some action should be taken immediately to relieve this situation.

Any assistance you can give will be greatly appreciated.

Yours truly,

LESLIE MORAN,
Executive Vice President.

NEW FARMERS NATIONAL BANK,
Glasgow, Ky., March 13, 1972.

Hon. MARLOW COOK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: The Western Kentucky Gas Company supplies natural gas to Glasgow and Barren County. They presently are unable to make any additional gas for industrial consumption. They state that the reason for this restriction on the use of gas is that the Federal Power Commission will not, or can not, make any additional gas available for the use of the industrial consumers in this area.

We need your assistance to see that every possible effort is made to lift the above restriction to enable the industries in Barren County to continue their normal expansions. Among those industries that are presently located in Glasgow that have had to postpone expansion plans are:

1. R. R. Donnelley & Co., a leading commercial printer, have immediate future plans to double the size of their present plant.

2. Tyson Bearing Company, a subsidiary of SKF, which manufactures tapered roller bearings, has been planning a major expansion for the near future.

3. Glasgow Industries, Inc., P. Sorenson Mfg. Co., and M. B. Manufacturing Co., which manufactures new and repairment automotive parts and accessories, desire to add another manufacturing division in the near future.

These industries are the major employers in Glasgow and Barren County. All of them will be required to postpone their needed expansions until an adequate and continuous supply of natural gas can be made available to them.

You are most familiar with the urgent need to continue expansion of the industrial base throughout the Commonwealth to take care of the normal additions to our work force and to provide jobs for them.

Thank you for all of the efforts that you can expend on our behalf to help Glasgow and Barren County continue to add to the number of jobs in our area. We will be glad to continue other efforts in this regard if you will indicate what we need to do.

Yours very truly,
L. FELIX MURRAY, *President.*

S. C. BARNES
INSURANCE AGENCY, INC.,
Elizabethtown, Ky., March 15, 1972.

Re: Natural Gas Shortage in Kentucky.

Senator MARLOW W. COOK,
Senate Office Building,
Washington, D.C.

DEAR SENATOR COOK: Apparently a natural gas shortage exists in Kentucky. At least in central and west Kentucky. The Firestone Plant at Bowling Green, Kentucky is planning an expansion. Their gas requirement will be 125,000 cubic feet.

If Western Kentucky Gas Company cannot supply this, then, the expansion will go elsewhere. Thus causing the Bowling Green area to lose approximately 300 jobs.

Any assistance or suggestions you might have for either the Firestone people or Western Kentucky Gas will be appreciated.

Sincerely yours,
S. C. BARNES INS. AGENCY, INC.
ALVA O. INMAN, *Vice President.*

THE VIETNAM WAR SPREADS AS OLD DELUSIONS CONTINUE

Mr. SYMINGTON. Mr. President, noting the latest news from Cambodia, on March 1, I released a letter to the chairman of the Committee on Foreign Relations summarizing the findings of a still-classified report by the staff of the Subcommittee on U.S. Security Agreements and Commitments Abroad with respect to the current situation in Thailand, Laos, and Cambodia.

On March 5, the Charlotte Observer published a thought-provoking editorial which I believe captured well the import of those findings and therefore ask unanimous consent that it be printed in the RECORD at the conclusion of these remarks.

Further regarding the report itself, we are currently negotiating with representatives of the executive branch in effort to declassify as much of it as possible and to release the report to the public in the near future.

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

THE VIETNAM WAR SPREADS AS OLD DELUSIONS CONTINUE

Is the war in Southeast Asia "winding down" and is our position there growing stronger? The public has been led to believe so. But a Senate committee staff report, still secret though partially disclosed during the past week, asserts the opposite. Reports of our secret military involvements in Thailand, Laos and Cambodia—secret to the American people, though of course not to the Communists—lead us to the same conclusion.

The fighting in Laos and Cambodia is increasing in intensity and we are continuing to make Thailand a bigger base for our military operations, says a summary of the staff report, compiled for a Senate Foreign Relations subcommittee headed by Sen. Stuart Symington (D-Mo.). The summary also says:

"The military situation is currently worse in Laos than at any time since 1962, and worse than ever in Cambodia. This is true despite the vast expenditures, despite the U.S. and South Vietnamese incursions into Cambodia and despite the South Vietnamese invasion of Laos (last year)."

What are our plans? The investigators said they could find none other than intentions "to continue to pursue the policies which thus far have served to intensify the destructive impact of the war, while failing to arrest the deteriorating military, political and economic situations in those two countries."

In other words, we are increasingly applying measures that have failed in the past. And, further, we are stepping up the "destructive impact" we are having on those countries.

As for Thailand: The staff report says we are paying "a heavy indirect price" for making it a principal base in Southeast Asia. We apparently are financing the use of 6,000 to 8,000 Thai mercenaries in Laos. This appears to be the Nixon administration's means of circumventing Congress prohibition against our use of "third country" forces in Laos. The administration is calling these troops "local forces."

The report also suggests that the administration may be defying Congress' limitation of U.S. aid to Laos and Cambodia, though it says it is too soon to draw that conclusion for certain.

Meanwhile, what about the use of American forces? In Vietnam itself our forces number 133,000, and Mr. Nixon has promised to bring the figure down to 69,000 by May 1. But large numbers of U.S. forces that are involved in Vietnam are not included in that count because they are not based on Vietnamese soil; their number has been increasing for the first time in three years. They are in bases in other countries or on U.S. aircraft carriers in the Gulf of Tonkin. The recent increases push their number to more than 41,000—a figure which we will not hear about when the administration next boasts of troop reductions.

The tragedy in all these is of multiple proportions.

First, the American public knows little about it and even Congress often cannot learn the truth. Sen. Symington, directing the staff that produced the latest report, said: "It has been very difficult to wring out the truth about just what we are doing there."

Second, we are continuing the old assumptions and errors that have led the past two administrations into disaster in Indochina. It is true that President Nixon seems less deluded than did President Johnson, but how much less deluded? If he is reelected, will we see the same kind of policies continue in Southeast Asia but furtively, as of late?

And third, the tragedy is not mitigated simply by the fact that American casualties have been decreasing. Our bombing and other uses of massive firepower continue to create hundreds of thousands of new refugees, all potentially susceptible to Communist overtures. We apparently still have not learned that a political struggle is to be won, not principally a military war. And, of course, that same increasing use of what the committee report calls "destructive impact" is killing women and children with no substantial gain for anyone.

It is all a somber story, one attesting to Washington's continuing delusions about what we can and should do in Southeast Asia.

PROBLEMS OF THE NATIONAL TRANSPORTATION SYSTEM

Mr. PASTORE. Mr. President, the Committee on Commerce currently is wrestling with the problems of our national transportation system. Indeed, there are critics who claim that we have no such system—only "an historical accident compounded by shortsightedness and that the main means of transportation—because we do not have a public system—is the private car."

A very sound presentation of the matter has been made before the Committee on Commerce by my colleague from Rhode Island (Mr. PELL). A dedicated student and legislator in the field of transportation, I feel there is a treasury of thought in his prescription to bring coordination out of chaos.

Senator PELL's thinking deserves wider circulation than in a committee hearing room. Millions and millions of people—our constituents—feel that a nation that can get to the moon can provide a transportation system to replace what has been termed "a completely haphazard, and accidental method of transporting the majority of our people."

To the end that more minds may be stimulated and action precipitated, I ask unanimous consent that Senator PELL'S transportation statement be printed in the RECORD.

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

STATEMENT BY SENATOR CLAIBORNE PELL

Mr. Chairman, Members of the Committee on Commerce: I appreciate the opportunity to testify before you in support of bills to establish one transportation trust fund and a number of regional transportation planning and development commissions.

These bills, introduced by Senator Magnuson and Senator Kennedy, represent a major attempt to restructure our nation's system of transportation finance and development. They are bills deserving of careful consideration by the Committee on Commerce.

To understand the need for action on those bills, it is only necessary to examine our present system.

THE PRESENT SYSTEM

It is a monstrous, chaotic system of transportation which indiscriminately consumes more than twenty percent of our gross national product, spews tons of pollution over our countryside, and causes unceasing frustration in our every day lives.

And, it is a monster over which we seem to have little control.

Despite at least two major laws calling for a national policy of balanced transportation services, despite a near national consensus that more emphasis should be placed on urban transit and intercity rail service, and despite increasing popular support for pollution-free alternatives to the automobile, our present system continues to spread miles of concrete ribbon over our limited land areas; and it continues to contribute to the shriveling up of our rail transportation system.

TRANSPORTATION: FINANCE IS THE KEY

We can talk about balanced transportation policy until we are blue in the face. We can plan for a balanced transportation policy until we have plans sufficient to fill every shelf in the Library of Congress. We can call for the reduction in the levels of pollution related to the automobile until our eyes begin to water from air pollution. But, nothing is going to happen until we change our present system of transportation finance.

In transportation, dollars do the talking.

There will never be real coordination between the different modes of transportation until there is coordination of the devices that are used to finance each individual mode of transportation.

Many distinguished economists in study after study have told us that it would be cheaper to the consumer and taxpayer in terms of overall economic and environmental costs and benefits if greater emphasis were given to rail transportation in congested urban areas. But what has happened? Very little. The Highway Trust Fund continues to throw out new highways. The Department of Transportation does another study of the Northeast Corridor. And, a new trust fund is created to build better airports.

ANTI-DEMOCRATIC NATURE OF PRESENT SYSTEM

Citizens concerned about pollution complain about the construction of new highways. What happens? They are given a token hearing, a pat on the head, and highway construction moves ahead.

Senior citizens in our crowded cities complain about the lack of public transportation. What happens? They are given a token fare reduction for off-hour travel, the total number of buses serving their city continues to be reduced for lack of sufficient revenue to support them, and private automobiles continue to tie up the city.

THE POOR ECONOMICS OF THE PRESENT SYSTEM

Our present system of transportation finance fits no rational model. It is neither a laissez-faire system nor a nationalized system. But, it has the disadvantages of both approaches and the virtues of neither. There is insufficient private investment and there is no comprehensive planning.

Consumer choice has little influence on the supply of services. Fares and routes are regulated. Highway travel is made available to you whether or not you ever wanted to buy an automobile. Bus service is usually lacking where you want it, and trains are usually not running to where you want to go when you want to go.

The accessibility of the proper mode of transportation to the consumer is many times the one most inappropriate for the distance to be traveled. Sometimes it is easier to fly on a jet to San Francisco than it is to get a bus to Silver Spring.

The supply of transportation services is not responsive to the demand for transportation services. The highway trust fund goes forward regardless of whether people want more roads. Short haul air passenger services receive subsidies from the government while urban corridor rail passenger services, which can provide the same service at less cost, receives nothing in direct federal assistance.

I believe the time is long overdue for us to restructure our disorganized, fragmented, and uncontrollable system of providing transportation services. We must put an end to the non-system we have created by legislation establishing different means of finance for different modes of transportation.

A SYSTEM OF TRANSPORTATION FINANCE

We need a unitary system of transportation finance that is responsive to the transportation requirements of our entire population.

We need a system of transportation finance that discriminates on the basis of a democratic selection of transportation priorities rather than on the basis of the weight of the financial resources exclusively available to one mode and not to another.

We need a system which allows trade-offs to be made among alternative modes of transportation and which permits elected representatives to choose the transportation services meeting the needs of their constituencies.

I believe those goals could be accomplished by the establishment of a national transportation fund for the financing of all modes of transportation in coordination with plans developed by regional transportation commissions.

The combination of Senator Kennedy's national transportation trust fund bill with Senator Magnuson's regional transportation bill could serve as the legislative vehicle for moving the reform of our transportation system down the right road.

I do not believe that we should abandon the concept of the user tax in transportation finance, but I do think we should consider the expenditures of the revenues from user taxes in a different context.

REVENUES FOR ANY TRANSPORTATION FACILITY

We should look at our transportation system in terms of giving our citizens the greatest freedom of mobility possible at the least cost to the consumer and the taxpayer.

This means we can no longer expect that user taxes from highways can only be used for highway construction; or that taxes on air passengers can only be used for airport development.

We must allow for cross subsidies between modes of transportation.

Moreover, we should take the widest possible view of the types of transportation services that could be assisted by the transportation trust fund.

Sidewalks, elevators, and escalators are part of our transportation system just as are highways, railroads, and airways.

Revenues from the transportation fund should be used to pay for whatever fixed facility is used to provide transportation services. Tunnels and roadbeds for rail and mass transit service should be provided free to the user just as a sidewalk and a highway are provided. The funds from the transportation trust fund should be available to the financing of escalators as well as runways and highways.

We should not allow, to the extent possible, any impingement on transportation planning by the earmarking of transportation revenues to particular modes. For example, it would be absurd to attempt separate commuter rail service in the Northeast Corridor from intercity rail service. Both are intermingled, and the financial needs of each are nearly impossible to separate.

DIFFERENTIAL USER TAXES

We should allow, on the other hand, for certain differences among the sources of taxes for the transportation trust fund.

For example, to relieve urban congestion and pollution we may want to provide for higher gasoline taxes and automobile excise taxes in urban areas, and for only negligible taxes on urban mass transportation fares.

I would suggest we look upon differential user taxes as a long but temporary expedient. In the long run the user fee for each mode of transportation should be equalized according to the benefits derived from each particular mode and according to the requirements of the national transportation fund.

Since the growth of our highway system has been out of proportion to the growth of the other elements of our transportation system, I think it might be reasonable to allow highway taxes to be used for the financing of capital improvements in our mass transit and urban corridor rail systems. Once the development of the elements of our transportation system are brought back into proportion with each other, then a less differential taxing policy might be in order.

IMPROVEMENTS IN THE PLANNING PROCESS

Planning without financial support is like daydreaming. It accomplishes little. For this reason, it is essential that the regional transportation commissions suggested in S. 2279 be given a veto over transportation expenditures not in conformance with the transportation plans of a region.

The development of a regional transportation plan should not be only an exercise for bureaucrats and professors. The planning process should include appropriate participation by citizens at the grass roots and by their elected officials.

In the planning process the Regional Commissions and the States should be given responsibility for providing citizens with complete and accurate details about the long-range costs and benefits of particular transportation plans. This data should include also information on the environmental costs.

Citizens, to the extent possible, should be given the opportunity to comment on proposed transportation construction projects. If, for example, the construction of a new road means for some citizens a hard choice of either jobs for their unemployed neighbors or an increase in pollution, they should be given the opportunity to make a choice.

LESS NEED FOR OPERATIONAL SUBSIDIES AND FARE REGULATION

Earlier in my statement I suggested that funds from the transportation trust fund be made available for the financing of any type of fixed facilities approved as part of a regional transportation plan.

If that suggestion is followed, I think it is possible that we will find there will be no need to provide operational subsidies to any mode of transportation and that there will be less need to regulate tariff prices.

For example, if we would support urban mass transit and urban corridor rail passenger service like we support bus service through the highway trust fund—that is, we provide for the financing of the highways but not for the support of the operation of the buses—I think we would find that subways and urban corridor rail passenger service would be able to pay for their costs of operation from their revenues.

By putting highways, runways, railroads, and transit roadbeds on the same financial footing, I think we can then permit the carriers who operate over those facilities to have more freedom in setting tariffs. We could then allow for more price competition and perhaps encourage some improved economic efficiencies in the operation of passenger and freight services.

For example, in the case of competition where the service of competing modes are

basically equal, as it is between New York and Washington for bus, train, and air service, we might allow for a range of tariffs within which ticket prices could fluctuate according to the efficiency and demand for the service.

It seems to me that if the public and private carriers did not have to carry unequal amortization burdens for fixed facilities and if the major burden of those costs were assumed by the national transportation trust fund, there is no reason why the forces of the marketplace should not be allowed to weed out costly and inefficient carriers.

As for the possibility of the investments of funds from the national transportation fund being put into fixed facilities for transportation services which could not break even solely on an operational basis, I do not think it would be likely if there was a proper use of a systems approach in calculating cost and benefits.

I realize the overall approach that I have suggested today is tremendously wide-ranging and would cause large-scale changes in the transportation industry. I realize it is probably easier to advocate the sweeping changes I have proposed than it is to obtain the votes to pass such a series of measures.

However, I believe the chaotic condition of our transportation system requires basic changes. A patch up job will not do. More is needed than incremental improvements in our transportation system if we wish to implement a balanced transportation policy ensuring maximum freedom of mobility to all citizens.

We must restructure our present system of transportation finance on the basis of one national transportation fund providing revenues to support the implementation of transportation plans put together by regional transportation commissions.

I believe the bills of Senators Magnuson and Kennedy represent a step in that direction, and I would hope that the Committee on Commerce would favorably consider those bills and the additions to their scope which I have suggested.

DEATH OF HOUSTON HARTE

Mr. TOWER. Mr. President, I wish to take a moment of the Senate's time to pay proper respect and due tribute to a nationally respected figure in the newspaper publishing business. He was Houston Harte, a widely respected Texan, who passed away on Monday of last week.

Houston Harte was a tremendously public-spirited man and a great leader.

He began his publishing career while still studying journalism at the University of Missouri by purchasing a small newspaper in Knobnoster, Mo., his boyhood home. He made that purchase with $2,000 which he had obtained by selling a building left to him by his stepmother when she died.

In 1920, at the age of 27, he risked his career and his future on a west Texas town known as San Angelo by purchasing the small afternoon newspaper there. He grew with San Angelo and with Texas. When he died, the newspaper chain he had founded extended into six States and is comprised of 19 newspapers with a combined circulation of more than 500,000.

Harte owned the San Angelo Standard-Times for 50 years. In 1923, he formed a partnership with the late Bernard Hanks of the Abilene Reporter-News. Hanks, until his death in 1948, owned nine newspapers. After Hanks' death, the partnership was incorporated as Harte-Hanks Newspapers, Inc., with Harte as president. In 1971, the corporation became public and Harte served as chairman of the corporation's executive committee, a member of its board of directors, and board chairman of the Standard Times.

During his career, Harte received many honors, but the two which meant the most to him were the medal of merit he received from the University of Missouri School of Journalism, and his election to the board of directors of the Associated Press on which he served a number of years.

Mr. President, I am among those fortunate enough to have known Houston Harte as a friend. I very much appreciate the fact that I had the privilege to enjoy a personal friendship with him. I benefited from his sage personal counsel. I am deeply saddened by his death, as I know are many Texans.

CHROME ORE IMPORTS FROM RHODESIA

Mr. McGEE. Mr. President, the Senate's vote last year to violate a United Nations ban on chrome ore imports from Rhodesia will have international ramifications that will haunt us for some time to come.

The New York Times of March 17 contains an editorial which points out that it is likely the Pearce Commission will report to British Prime Minster Edward Heath that their projected settlement with Rhodesia is not acceptable to Rhodesia's black majority.

As the Times editorial writer noted:

If that happens, Mr. Heath will have no honorable choice except to persevere with the mandatory sanctions invoked against Rhodesia in 1968 at Britain's request by the United Nations Security Council.

It is worthwhile noting that the United States was instrumental in obtaining Security Council approval of the sanctions.

What all this means is that the United States is faced with the prospect that a Rhodesian settlement appears to be a long way off and that our country will have to bear the stigma of being an overt international law breaker for some time to come.

What has been called into question is the integrity of the United States and its trustworthiness in living up to treaty commitments. The Rhodesian chrome ore incident is reprehensible. And if our international reputation has been tarnished over this incident, it is indeed very much deserved.

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:

U.S. AS LAW-BREAKER

Even the British Government now anticipates that the Pearce Commission will report to Prime Minister Heath that the projected settlement with Rhodesia is not acceptable to that country's black majority. If that happens, Mr. Heath will have no honorable choice except to persevere with the mandatory sanctions invoked against Rhodesia in 1968 at Britain's request by the United Nations Security Council.

And, if Britain continues enforcing these sanctions in support of the United Nations, attacks on the United States for deliberately breaching them by act of Congress are certain to increase spectacularly. Other governments have unquestionably winked at violations of the sanctions, but only the United States, Portugal and South Africa have openly flouted the Security Council.

Senators ought to be having pangs of conscience about their votes last fall for the Byrd amendment that put the United States in this indefensible position. The amendment in effect ordered the President to lift the ban on Rhodesian chrome and other "strategic" materials so long as these were also imported from the Soviet Union.

The argument that this country could not be dependent on Russia for materials needed for defense purposes always was spurious. The chrome stockpile is now so far in excess of any possible strategic requirement that the Administration has sought legislation to dispose of 1.2 million tons. It was in a climate of ignorance, cynicism and anger at the U.N. for ousting Taiwan that the Byrd amendment became law.

Even so, some Senators undoubtedly voted for it because they believed the sanctions would soon be lifted in any event after a British settlement with Rhodesia. Now, however, a Rhodesian settlement seems a long way off and the United States faces the prospect of an indefinite period in the dock as an international law-breaker and an underminer of the United Nations.

An Argentine ship is about to unload the first shipment of 25,000 tons of Rhodesian chrome at a Louisiana port and another 125,000 tons will soon be en route. It is symptomatic of a time of cynicism and indifference that few Americans seem to know or care.

J. WOODROW WILSON

Mr. THURMOND. Mr. President, I wish to pay tribute to Mr. J. Woodrow Wilson, a dedicated lifelong employee of our Government and a respected citizen of Aiken, S.C.

Mr. Wilson devoted his entire life to the U.S. Postal Service, rising through the ranks of the Aiken Post Office and attaining the rank of postmaster in 1968. His career spanned a period of remarkable growth in his post office including recent construction of new facilities doubling the size of the Aiken Post Office.

An extremely genial man, Mr. Wilson had many friends and was extremely active in community life. His death is a tremendous loss both to our Government and his community.

Mr. President, I ask unanimous consent that an editorial published in Mr. Wilson's hometown newspaper, the Aiken Standard, on March 9, 1972, be printed in the RECORD.

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

J. WOODROW WILSON

J. Woodrow Wilson had devoted most of his adult life to the Postal Service. In the Aiken Post Office, he rose through the ranks to become postmaster in 1968.

His years of service coincided with a period of phenomenal growth for the local post office. The construction of a new post office twice the size of the old one pointed up this growth, and Mr. Wilson was in charge of postal operations during the relocation last year.

A native of Aiken, he was a veteran of World War II. He was active in community life as a member of the First Baptist Church,

the American Legion and the Aiken Lions Club. He had served in positions of leadership in United Fund.

He was a genial, mild-mannered man with a winning smile and many friends.

His death last week leaves a void in our community. We extend our deep sympathies to his family.

ADVANCES FORECAST IN AIRPORT SAFETY AND EFFICIENCY

Mr. DOMINICK. Mr. President, an announcement was made recently by the Department of Transportation/Federal Aviation Administration which received little public attention, but I do believe it merits note by my colleagues in the Senate.

The FAA, under the administration of Mr. John H. Shaffer, is proceeding with development of a system of wake-turbulence detection that will effect greater airport and aircraft utilization while maintaining the high level of safety we have now. The problem being studied here has not received widespread attention because the FAA has always imposed strict precautions in airport use to prevent wake-turbulence from becoming a safety hazard.

A system of acoustical detection of intense turbulence areas that trail aircraft—particularly large planes—is being developed by Xonics, Inc., of Van Nuys, Calif. under a $414,226 contract from the Department of Transportation. The system ultimately could eliminate the hazards created when airplanes of significant weight differences utilize the same traffic pattern, and at the same time allow more efficient use of airports during times of heavy traffic.

Some people may assume this is a problem just for small, general aviation aircraft, but that is far from true. It affects all of the flying public.

The turbulence generated in the wake of an aircraft is proportionate to its weight, and with the advent of larger and larger planes, more space must be left in the landing pattern following these planes to allow an adequate safety factor. Presently, even medium-to-light weight commercial airliners must sometimes have as much as 10 miles or more between them and preceding wide body jets to allow time for any wake-turbulence to dissipate. As the number of jumbo jets in operation increases, the spacing problem will become more acute in the effort to get maximum airport utilization at peak periods.

With the development of the Xonics system, these areas of turbulence can be identified and avoided.

Each year there are a few accidents when a light plane, such as the kind I like to fly, gets caught in a vortex of high turbulence that has either failed to dissipate or strayed extremely far out of its normal pattern. When a system can be installed such as the one being developed by the FAA and Xonics, the possibility of this kind of accident at airports so equipped will be practially eliminated.

Perhaps the most important potential benefits of this developmental work, however, will be for those who fly on the airlines. The advent of this system at high density airports would mean more efficient handling of traffic at peak times—and greater likelihood of airlines operating on schedule. It is estimated that aircraft operators lose between $200 and $300 million each year in fuel costs alone because of delays at peak traffic periods necessitated by spacing incoming aircraft to eliminate the possibility of any wake-turbulence type of accidents. This figure does not take into account the increased labor costs for aircraft and airport personnel resulting from these delays. And there is no way to measure the costs of delays to the passengers who must sit and wait up there while aircraft traffic is processed at this slower, but safe, rate.

Mr. President, as a private pilot, and as one who is greatly concerned with aircraft and airport safety, I would like to commend Secretary Volpe, FAA Administrator Shaffer, and Xonics Corp. for their interest and work in this area. It seems to me that a relatively small amount of money is involved here for a tremendous increase in the benefits to the flying public.

I hope that the present study and following developmental work on this advanced system will go forward quickly and smoothly so that our airways can continue to be operated with the high standards of safety presently being maintained, but with even greater efficiency and savings for those who fly.

I ask unanimous consent that the announcement from the Department of Transportation and the Federal Aviation Administration be printed in the RECORD.

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

DEPARTMENT OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION,
Washington, D.C.

The Federal Aviation Administration of the Department of Transportation has awarded a $414,226 contract to Xonics, Inc. of Van Nuys, Calif., for additional wake turbulence studies leading to the design of a ground-based acoustic wake turbulence detection system, FAA Administrator John H. Shaffer announced today.

The Xonics effort will be conducted as part of the total FAA/DOT program to seek solutions to the wake turbulence problems as it affects aircraft capacity at airports. Wake turbulence comprises the two rotating tubes (or spirals) of air trailing from each wing tip when an aircraft is in flight.

First, Xonics will conduct a detailed analysis of the results of previous wake turbulence studies, completed last year by the company and FAA's National Aviation Facilities Experimental Center, to validate the concept of acoustic techniques for the detection and measurement of turbulence vortices.

The wake turbulence flow fields generated by several classes of aircraft, including wide-body jets, will be measured. The contractor also will examine the capability of locating and tracking the movement of wake turbulence vortices at altitudes up to 1,700 feet.

Finally, Xonics will recommend a design of a ground-based acoustic wake turbulence detection system capable of providing wake vortex surveillance along an airport ILS (instrument landing system) approach path.

Work on the study will be completed in approximately five months.

FEDERAL WOMEN'S AWARD BANQUET

Mr. FONG. Mr. President, last week, an annual event took place in our Nation's Capital to which I would like to call the attention of the entire Senate. The 12th annual Federal Women's Award Banquet was held on March 14 to honor this year's six winners.

I feel that President Nixon has made it very clear that equality for women is a top priority item for his administration. In April 1971, he set a goal of doubling the number of women in top-level, policy-making positions before the end of calendar year 1971. Not only has that goal been met, it has also been exceeded. At this time more women have been appointed to full-time, policymaking positions in the Federal Government under the Nixon administration than ever before in our Nation's history. Now, the goal is to continue to place as many women in top positions as we can.

Most of these top women are, of course, appointees from many different walks of life. Few of them are career civil servants. What I emphasize today—as ranking Republican member of the Post Office and Civil Service Committee—is the high caliber of women holding high level positions within the Civil Service.

The Federal Women's Award was established to provide special recognition to women who have made outstanding contributions to the efficiency and quality of the career service of the Federal Government, and to dramatize and make more widely known to the public the wide variety of challenging careers for women in the Federal Government.

The Federal Women's Award was established 12 years ago at the suggestion of Barbara Bates Gunderson who was a member of the Civil Service Commission. The award is administered by a board of trustees made up of members from Government and the private sector. The board is incorporated as a nonprofit, non-Federal organization, and receives no Federal money. Since its inception, the award has been sponsored by Woodward and Lothrop which underwrites all the expenses.

Each Government agency or department within the executive branch of the District of Columbia government is invited to nominate no more than six women each year. These nominees are screened first by the Civil Service Commission; screened again by the executive committee of the board which chooses about 25 nominees; and these 25 are sent to a panel of judges chosen each year from prominent private citizens representing the arts, the news media, science, and business. The panel of judges selects the six winners each year.

I would also call to the attention of the Senate that the chairman of the board of trustees is the Honorable Patricia Reilly Hitt, Assistant Secretary, Department of Health, Education, and Welfare, and one of the top women appointees in the Nixon administration; and that the vice chairman is the Honorable Robert E. Hampton, Chairman, U.S. Civil Service Commission.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point in my remarks the following items: A list of the board of trustees; a list of this year's judges; Chairman Hitts' introductory remarks at last week's banquet; and, most importantly, a list of this year's winners together with a résumé of their accomplishments over the years.

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

THE BOARD OF TRUSTEES—FEDERAL WOMEN'S AWARD

Chairman: Hon. Patricia Reilly Hitt, Assistant Secretary, Department of Health, Education, and Welfare.

Vice Chairman: Hon. Robert E. Hampton, Chairman, U.S. Civil Service Commission.

Members: Dr. Allen V. Astin, Director Emeritus, National Bureau of Standards.

Hon. Helen Delich Bentley, Chairman, Federal Maritime Commission.

Benjamin C. Bradlee, Executive Editor, The Washington Post.

Joseph B. Danzansky, President, Giant Foods, Inc.

Miss Miriam Ottenberg, Investigative Reporter, The Evening Star.

Hon. Charlotte T. Reid, Commissioner, Federal Communications Commission.

Hon. Rocco C. Siciliano, President, T.I. Corporation of California.

Dr. Bennetta B. Washington, Associate Director for Women's Programs and Education, Department of Labor.

Hon. Barbara M. Watson, Administrator, Bureau of Security and Consular Affairs, Department of State.

Mrs. H. Douglas Weaver, Immediate Past President, District of Columbia Federation of Republican Women.

Honorary Member and Founder: Hon. Barbara Bates Gunderson, Rapid City, South Dakota.

PANEL OF JUDGES—FEDERAL WOMEN'S AWARD, 1972

Hon. Sylvia Bacon, Judge of the Superior Court of the District of Columbia.

Miss Joan Crawford, Director, Pepsi-Cola Co.

Mr. Malcolm Forbes, President and Editor-in-Chief, Forbes Magazine, Inc.

Dr. Milton Harris, Former Vice President of the Gillette Co. and Chairman of the Board of the American Chemical Society.

Mrs. Jeannette Eddris Rockefeller, Member, The President's Committee on Mental Retardation.

INTRODUCTORY REMARKS—BY (MRS.) PATRICIA REILLY HITT, CHAIRMAN, BOARD OF TRUSTEES, FEDERAL WOMEN'S AWARD

It is a great pleasure to join with you this evening in paying tribute to six outstanding women in the Federal service.

This is the twelfth year since the Federal Women's Award was launched by Barbara Bates Gunderson of the Civil Service Commission—and—with each passing year—the selection process has grown increasingly more difficult.

In my opinion, this is a tribute not only to the six being honored tonight—and the almost 70 who have been honored in past years—but also it is a tribute to ALL women in government.

This celebration tonight brings to public attention the fact that women in Federal service are capable of a wide range of accomplishment—possess the skills to plan or direct important programs—and have the imagination to bring forward valuable ideas.

I heartily subscribe to a statement by Count Alexis de Tocqueville who said:

"If I were asked to what the singular prosperity and growing strength of the American people ought mainly to be attributed, I should reply: To the superiority of their women."

The living proof of this statement is here before you tonight.

If I had to name one common characteristic that these six women share, I would say this: Each of them has shown a clear understanding of her own ambitions and capabilities—and each has been uncompromising in her determination to handle every assignment to the best of her individual ability.

But while their backgrounds and aims have been diverse, they also share other characteristics which have made them successes as women—a sense of humor, a wide range of interests over and above their professional fields, and a genuine regard for other people.

The achievements of this group—and other groups which preceded them—have gone a long way toward focusing attention both on the satisfactions of Federal service and on the contributions which women are able to make. We owe them an enormous debt of gratitude—for they prove to us that, "Talent knows no sex."

DR. LOIS ALBRO CHATHAM, CHIEF, NARCOTIC ADDICT REHABILITATION BRANCH, NATIONAL INSTITUTE OF MENTAL HEALTH, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Lois Albro Chatham, Ph.D., is a clinical psychologist who administers the major Federal program in the treatment of narcotic addiction and drug abuse, a field of great national concern which has been given high governmental priority. She joined the Department of Health, Education, and Welfare in 1963 as a psychological advisor in the National Center for Health Statistics. In 1968 she became director of research in the Division of Narcotic Addiction and Drug Abuse of the National Institute of Mental Health, and early in 1969 was appointed Chief of the Narcotic Addict Rehabilitation Branch, grade 15. In this position she has built up the Branch and devised the programs to implement many new laws, establishing the Federal Government's policy and leadership in this field.

Under Dr. Chatham's direction, the program of the Narcotic Addict Rehabilitation Act, which gives her Branch direct responsibility for the care of patients committed to the Surgeon General, has been expanded to a national network of 166 agencies caring for over 2,000 patients. She has also developed community-based treatment facilities to which over 15,000 patients were admitted in fiscal 1971, and initiated an on-going program of research on treatment of the narcotic addict and drug abuser. Her policies, such as strict standards for the use of chemotherapies, insistence on continuity of care, centralized evaluation of the program, and research as an integral component to treatment, among others, have had national and international impact on the Federal role in the treatment of the narcotic addict and drug abuser.

From 1958 to 1963 Dr. Chatham was Chief Psychologist for the Austin, Tex., Community Guidance Center. She was born in Groveland, Ill., and lived in Fort Wayne, Ind.; she received her BA degree from Houghton College in 1951, her MA from Southern Methodist University in 1954, and her PhD from the University of Houston in 1960. Her husband, George N. Chatham, is Aerospace Specialist in Science Policy Research, Library of Congress, and they live in Washington. She fills frequent consultant and lecturer engagements in the field of clinical psychology; for relaxation she flies her own airplane.

MRS. PHYLLIS DIXON CLEMMONS, DIRECTOR, SUICIDE PREVENTION AND EMERGENCY MENTAL HEALTH CONSULTATION SERVICE, DEPARTMENT OF HUMAN RESOURCES, GOVERNMENT OF THE DISTRICT OF COLUMBIA

Phyllis Dixon Clemmons, R.N., is a nurse specializing in the field of mental health and psychotherapy who planned, established, and directs the first Suicide Prevention and Crisis Intervention Program in this part of the country. With responsibility for executing the D.C. Mental Health Laws, she has developed several training programs for both professional and nonprofessional health workers and clerical staff. Both the suicide prevention program and the training programs have become models for similar activities in the United States and in foreign countries.

Mrs. Clemmons obtained her graduate nursing degree from Philadelphia's Mercy Hospital in 1948 and began her Government career in 1949 at Saint Elizabeths Hospital, the Federal mental hospital in Washington, D.C. During her 13 years there she introduced several innovations in the care of the mentally ill that are now widely accepted. She came to the D.C. Government in 1962 with the new Psychiatric Convalescent and Rehabilitation Center at D.C. General Hospital, and in 1965 set up the area's first 24-hour emergency telephone service. She also originated a walk-in service, a mobile emergency mental health service, and a follow-up program for all individuals utilizing the services. She was appointed Community Mental Health Officer at grade 12 in 1969. Over the past 6 years she has provided direct service to more than 11,000 persons in suicidal or other psychosocial crises; during that time the number of suicide-oriented calls has increased while the number of suicides has greatly decreased.

A member of several professional associations, Mrs. Clemmons lectures at various universities and has published a number of articles and monographs. Awards and honors she has received include national recognition by the American Psychiatric Association for her outstanding accomplishment in the training and supervision of paraprofessionals in remotivation group therapy techniques. She was presented in a nationwide television documentary, "Who Answers the Cry for Help?" Mrs. Clemmons was born in Apollo, Pa., where her parents, Mr. and Mrs. Fred Dixon, still live. She has a son 14 and a daughter 9, and lives in Suitland, Md.

DR. RUTH MARGARET DAVIS, DIRECTOR, CENTER FOR COMPUTER SCIENCES AND TECHNOLOGY, NATIONAL BUREAU OF STANDARDS, DEPARTMENT OF COMMERCE

Ruth Margaret Davis, Ph.D., is a mathematician and physicist who is one of the country's leading pioneers in the young field of computer technology. She directs the Center for Computer Sciences and Technology, which is responsible for providing advisory services to the Office of Management and Budget and the General Services Administration to support the formulation of ADP management and procurement policies, and to other Federal agencies to assist in the solution of specific automation problems. Since her appointment in 1970 she has developed the Government's ability to make effective use of computer technology in such fields as health care, protection of environmental quality, education, law enforcement, and Government operations.

Dr. Davis began her Federal career in 1955 as a research mathematician in the Department of the Navy and progressed through positions there and in the Office of the Secretary of Defense, where she was Staff Assistant for Intelligence and Reconnaissance from 1961 to 1967. She went to the National Library of Medicine, National Institutes of Health, in 1967 as Associate Director for Research and Development, and also directed the Lister Hill National Center for Biomedical Communications there. In the latter position she brought together the Federal Government and the health care community to apply computer networking and systems technology to the problem of improving biomedical communications and making computers more readily accessible to physicians in the delivery of health care services. In her present position with the National Bureau of Standards she has initiated research in computer sciences and technology which not

only can save millions of dollars in Government operations but also improve the health and safety of people. She has received numerous national commendations and citations; among many other honors are medals for accomplishments in information sciences from universities in Finland and Sweden, both awarded in 1969.

Dr. Davis was born in Sharpsville, Pa., and graduated from American University in 1950. She earned her MA in 1952 and her PhD in 1955, both from the University of Maryland. She is married to Benjamin F. Lohr, Comdr. USN(Ret.), who is Vice President, Kelly Scientific Corporation, and they live in Silver Spring, Md.

MRS. MARY HARROVER FERGUSON, COMPTROLLER, OFFICE OF NAVAL RESEARCH, AND SPECIAL ASSISTANT (FINANCIAL MANAGEMENT) TO THE ASSISTANT SECRETARY FOR RESEARCH AND DEVELOPMENT, DEPARTMENT OF THE NAVY

Mary Harrover Ferguson is a financial management expert who during the past 16 years has developed and administered a financial system which has provided resources vital to the Navy's research and development program. With a dual responsibility as Comptroller, Office of Naval Research, and Special Assistant (Financial Management) to the Assistant Secretary of the Navy for Research and Development, she deals not only with complex financial issues but also with high-level scientific, military, and political personnel who regularly ask for her counsel on those issues.

Mrs. Ferguson provides the perfect—and rare—example of a complete career in the Federal civil service, having started at grade 1 in 1933 with the Depression-born Farm Credit Administration and progressed steadily upward, through several different agencies, to her present grade 17. In 1947 she came to the newly created Office of Naval Research as a budget analyst, advanced to Budget Officer and then to Assistant Comptroller for Budget and Reports, was appointed Deputy ONR Comptroller in 1968, and Comptroller in May 1971. She is involved in all aspects of financial management of the Navy-wide Research, Development, Test and Evaluation Program, with authority for commitment in the decision-making process at all levels. Under her direction a staff of 67 analysts, accountants, ADP systems analysts and programmers, and support personnel, administer an appropriation of well over $2 billion annually, distributed among 13 administering offices, to support RDT&E efforts performed by contract with colleges and industrial organizations and by 45 RDT&E Navy laboratories, test ranges, and installations.

Mrs. Ferguson has received repeated awards and commendations from the Navy Department, and last year was named "Woman of the Year" by the American Society of Military Comptrollers. She is constantly engaged in a wide variety of professional and community activities. A native of Manassas, Va., she has an AA degree in business administration from George Washington University (1961), and lives in Alexandria, Va. Her husband, John A. Ferguson, Capt. USN (Ret.), is branch manager of Investors Financial Services at Landmark Shopping Center, Alexandria, Va. She has two sons (by her first marriage) and five grandchildren.

DR. RUTH MANDEVILLE LEVERTON, SCIENCE ADVISOR (NUTRITION), OFFICE OF THE ADMINISTRATOR, AGRICULTURAL RESEARCH SERVICE, DEPARTMENT OF AGRICULTURE

Ruth Mandeville Leverton, Ph.D., is a scientist in the field of nutrition whose research and appraisals of research have contributed significantly to adequate diets and a more satisfying standard of living in this country and worldwide. She has been instrumental in providing information for planning consumer education programs, for analyzing the demand for agricultural products, and for determining the food policies of the Department of Agriculture.

Before entering the Federal service, Dr. Leverton spent 20 years in teaching nutrition, at the University of Nebraska and later at Oklahoma State University. She joined the Agricultural Research Service in 1957 as Assistant Director of the Human Nutrition Research Division, and progressed rapidly through positions of increasing responsibility in the Service. In 1970 she was appointed Science Advisor for Nutrition in the Office of the Administrator, at the equivalent of grade 17. Here she occupies a key position in the mobilization of the Department's scientific resources for the worldwide War on Hunger. She directs the expansion of research to provide nutritional knowledge urgently needed in developing countries, and advises on nutritional requirements for foods for distribution in such countries and in domestic programs for needy families and the school lunch program. She was involved in the most extensive survey of food consumption and dietary levels ever attempted in this country, and first one to yield data on both individual and family eating habits.

Dr. Leverton is internationally known, not only as a scientist, but as an author, lecturer, and educator. She has represented the United States at four Biennial Conferences of the United Nations Food and Agriculture Organization, and at a great many international nutrition conferences. She serves on numerous national committees, and has published more than 70 reports of original scientific research and two widely used books on nutrition. Her many honors include the Borden Award, which she received twice, and an honorary D.Sc. degree from the University of Nebraska. She was born in Minneapolis, Minn., and received her B.S degree in 1928 from the University of Nebraska, her MS in 1932 from the University of Arizona, and her PhD in 1937 from the University of Chicago. She lives in Washington, D.C.

DR. PATRICIA ANN MCCREEDY, PUBLIC HEALTH PHYSICIAN, PROJECT MANAGER OF VILLAGE HEALTH PROGRAM, VIENTIANE, LAOS, AGENCY FOR INTERNATIONAL DEVELOPMENT

Patricia Ann McCreedy, M.D., is a public health physician who has major responsibility for the Village Health Program of the Agency for International Development, at Vientiane, Laos. In this program, which assists the Royal Lao Government by extending medical and clinical services to remote rural areas, Dr. McCreedy has been directly and indirectly responsible for operational aspects of keeping an average of 176 rural dispensaries staffed and supplied with medicines; for operation and staffing of eight hospitals with a total capacity of 614 in-patients and operating at a level of 343,686 patient-visits per year; and for the training of nurses, sanitarians, and other paramedical personnel, many of whom are illiterate at the outset, to staff these installations. She makes all necessary personal inspections, including installations surrounded by North Vietnamese armed forces. Since many of these areas are accessible only by air, she travels for hours daily in single-engine aircraft, often in dangerous weather, over mountain ranges and across jungles, and shares the life and homes of simple villagers in remote, enemy-encircled, malarial areas. Because of her detailed knowledge of these places and people, she has made valuable contributions to the Government's knowledge and understanding of the refugee problems in Laos, and also of the narcotics problem.

Dr. McCreedy was born in St. Louis, Mo., graduated from Loyola University in 1947, and earned her M.D. degree at the Louisiana State University School of Medicine in 1951. Following several years in private practice in Maringouin, La., she served two years as Public Health Officer in American Samoa, and in 1964 went to Laos as Project Manager of the Village Health Program. She is also manager of the Population and Family Planning Project there, and Contract Representative for the Operation Brotherhood Activity. Dr. McCreedy and her husband, Dr. Charles L. Weldon, senior officer at the A.I.D. Vientiane mission, often work as a team. They have three children, a da ghter 19 and two sons 17 and 15. Their home when in this country is in Biloxi, Miss.

DAY CARE—CHILD DEVELOPMENT

Mr. MONDALE. Mr. President, two very perceptive articles on day care—child development recently appeared in local papers. Several weeks ago the Washington Post had a very insightful column by Alice Rivlin entitled "Day Care: Policy Questions for an Expensive Program." In this article Dr. Rivlin looks behind the "spurious" arguments that have unfortunately characterized a good bit of the debate over this issue and focuses on the real policy questions involved. She concludes for example:

> The principal effect of a large-scale day care program would probably not be to increase the proportion of mothers who are working; rather it would be to broaden the range of child care arrangement available to mothers who have already decided to work.

The second article to which I refer is a column entitled "Need for Day Care Bill Is Urgent," written by Marquis Childs, and published in yesterday's Baltimore Sun.

Mr. Childs summarizes concisely the needs for developmental day care, the tremendous opportunity a program like this could provide to millions of families and children, and the purposes of the child care bill I have introduced with Senator NELSON.

Both articles ignore the heated rhetoric and scare tactics which regrettably surround the passage and the veto of last year's child development bill and help us to focus on the real issues involved.

I ask unanimous consent that these two perceptive columns appear at the close of my remarks and commend them to the attention of the Senate.

Mr. President I would also like to have printed at the close of my remarks a copy of a Minnesota poll concerning day care which appeared in the Minneapolis Tribune on Sunday, February 27, 1972. The poll, entitled "63 Percent Say Day Care Centers Good for Children," reflects the opinion of a majority of a cross section of Minnesotans and I suspect a majority of a cross section of Americans as well, that quality day care centers for children whose mothers are working involves far more advantages than disadvantages.

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

[From the Minneapolis Tribune, Feb. 27, 1972]

MINNESOTA POLL: 63 PERCENT SAY DAY-CARE CENTERS GOOD FOR CHILDREN

"Day-care centers give a child a chance to become involved with other children," said a 27-year-old Glencoe woman. "They also offer learning experience, especially for children that wouldn't get this at home."

But, on the other hand, she also feels they have the disadvantage of "not having a one-to-one relationship that a mother and child might have at home."

After weighing both the advantages and disadvantages, she says that day-care centers do more good than harm for a child.

Her responses were typical of the 600 men and women interviewed in a statewide Minneapolis Tribune Minnesota Poll survey in mid-January.

Socialization, supervision and education are the advantages cited most often while the feeling that day-care centers can't replace a mother is a disadvantage mentioned often.

Over-all, 63 percent of all people interviewed believe day-care centers do more good for a child while 19 percent feel they do more harm. Three percent qualified their answers and 15 percent were undecided.

More women (69 percent) than men (56 percent) said day-care centers do more good than harm for a child.

Interviewers led off the series of questions on day-care centers with:

"Day-care centers are places where mothers can leave their children for care and supervision while they work away from home. What advantages, if any, do you think day care centers offer for a child?"

Thirty-nine percent said a child would benefit by being with, and learning from, other children.

Twenty-two percent said children receive good care or are well-supervised and 17 percent feel there are educational values, including access to facilities they would not have at home.

Thirteen percent said the centers provide consistent surroundings for children, must meet standards, or are better than "just any babysitter" if it is necessary for a mother to work.

Seventeen percent said there are no advantages to day-care centers or that mothers should be at home with the child.

To get at the other side, interviewers asked:

"What disadvantages, if any, do you think day-care centers have for a child?

The disadvantage given most often (by 27 percent) is that day-care centers can't replace a mother, the child misses out on a one-to-one relationship, or that the mother's love is replaced by impersonal care.

The results of the Minneapolis Tribune's Minnesota Poll are based on personal in-the-home interviews with 600 men and women 18 years of age or older. Respondents are selected by probability sampling procedures and interviewed by a staff of 110 trained interviewers. The Minnesota Poll was established in 1944 as a public service.

NEED FOR DAY-CARE BILL IS URGENT

(By Marquis Childs)

WASHINGTON.—With the thousands of words spilled in the Florida primary about busing, not a single word was uttered about the only frontal attack on the tragic deficiencies in American education. Having advertised earlier his opposition to busing, President Nixon's newest proposal comes with ill grace against the background of what he did in December.

Last year the Congress passed by sizable majorities a measure meant to enlarge the opportunities for children living below the poverty line in ghettos, in Appalachia, and in the Southwest, with "condemned for life" written across their condition.

Head Start, the program designed to try to correct the balance for those of the very young who are deprived of a fair chance to begin on the mark at school age, was to be greatly expanded.

But, most important, the bill provided for a great increase in day-care centers for children from homes where both parents go out to work or where the mother is the sole provider.

Extensive hearings held by Senator Walter Mondale, the sponsor of the bill, showed that there were perhaps 700,000 places in day-care centers that could be considered adequate while the need was for at least 5,000,000.

Toward the end of the last session of Congress, President Nixon vetoed the bill with a message that, as a presidential state paper, reads like a demagogic campaign speech. This, said the President, was an effort to impose the commune system and break up the family pattern. He conveniently ignored the fact that his own welfare reform measure would force many mothers to go into the labor market even though they may have preschool children.

What especially dismayed the sponsors was that they believed they had the sanction of the Secretary of Health, Education and Welfare, Elliot L. Richardson. As they reconstruct it, Mr. Richardson was overruled by John D. Ehrlichman, who performs somewhat the same function for domestic affairs as does Henry Kissinger for foreign policy.

Belatedly, Mr. Richardson wrote a letter protesting the failure to clue the states into the program.

By seven votes the Senate failed of the two-thirds necessary to override the veto. Now, Senator Mondale with Senator Gaylord Nelson has a new child care-Head Start proposal modified to meet some of the objections. More authority is given the states, and the authorization is cut from $2 billion to $1.5 billion. The hope is not only that it will be passed but that with these changes the President will sign it.

A recent survey by the National Council of Jewish Women found existing day-care services woefully deficient in both quality and quantity. Many centers were described as hardly better than concentration camps for helpless children. In one center children were strapped into high chairs apparently in a stupor.

About this mass neglect, this callous indifference, there can be no illusions. It is the seedbed in the rising generation for crime, violence, disease, unemployment, the whole roster of ills that so sorely beset this affluent nation.

Those who today work with the young who are crippled in mind or body by the terrible distortions of contemporary life can appreciate what this heritage must mean. They function often under severe handicaps with little money or public support.

Of the many institutions around the country working with deeply disturbed children, one here in Washington, the Groome Child Guidance Center, is outstanding. The slow, painful rebuilding of young lives, helping to overcome what is the reward of doctors and teachers. So great is the demand that not surprisingly they feel they are dipping out the ocean with a teaspoon.

They know so well the consequences of mass neglect; shunting the very young from squalid and empty homes onto the streets, where they will be educated in violence and the escapism of drugs. Short of a frontal attack, such as the Mondale-Nelson bill proposes, the harvest of broken lives will grow in the years to come.

"SPURIOUS" ARGUMENT OVER WHETHER MOTHERS SHOULD WORK—DAY CARE: POLICY QUESTIONS FOR AN EXPENSIVE PROGRAM

(By Alice M. Rivlin)

If you want to start an argument at a boring party—and you are tired of busing and Vietnam—try day care. Just ask a few people whether they think the federal government should provide day care for children of working mothers, and in no time your friends will be on the verge of heaving ash trays at each other.

Unfortunately, they will probably be arguing about a spurious issue—the issue of whether or not mothers should work. The argument may sound as though: (1) mothers don't work now, (2) the reason they don't is that the government does not provide day care, (3) if there were a government day care program, many more mothers would leave home, drop their kids in day care centers and go to work, (4) the gut issue is whether this would be good or not.

But out in the real world mothers have not been sitting around waiting for public officials to make up their minds about day care programs. Millions of mothers are working now—even those with very small children.

According to a Labor Department study by Elizabeth Waldman and Katherine Gover, about half the mothers of school-age children were in the labor force in March 1970, as were about a third of those with preschool children. Some worked part-time, but the majority had full-time jobs. Moreover, since many mothers work only part of the year, the proportion with some work history during the previous year was even higher than the proportion in the labor force at a given moment. Among wives living with their husbands, 44 per cent of those with children under 6 and 58 per cent of those with children of school age worked some time during the year. The percentages would be even higher if they included the increasing number of separated or divorced women bringing up children on their own.

Among black mothers, working outside the home is even more usual—and this is not just because a larger proportion of black women are family heads. Among black mothers living with their husbands, 64 percent of those with preschool children and 73 per cent of those with school-age children worked some time during the year.

Clearly we are dealing with a cultura. phenomenon—not just oddball behavior. More than 26 million children have mothers in the labor force (up 10 million in a decade) and 6 million of them are under 6 years old. That's a lot of kids.

There are many theories about why mothers are entering the job market, although most of the explanations seem as likely to be manifestations of the phenomenon as causes of it. First, with a falling birth rate, increasing numbers of mothers have two or three children rather than four or more. A mother of two not only has less housework to do than a mother of six, she finds it easier and less expensive to arrange for someone else to care for her children while she works. Moreover, a mother of two knows there are likely to be many years ahead when her children no longer need her. She may decide to keep working when her children are young, so she will not have to start at the bottom of the job ladder when the kids grow up. Second, convenience foods, wash and wear fabrics and labor-saving appliances have made it less necessary for mothers to stay home for reasons other than child care and at the same time have increased the family's need for cash income to pay for all these wondrous things. Third, with the mechanization of industry and the growth of services, fewer jobs require physical strength and more are open to women. Fourth, notions of "women's place" are shifting. Although attitudes may not be changing fast enough to suit the leaders of women's lib, the belief that women should be individuals with lives of their own, not just wives and mothers, is clearly gaining ground fast, especially among the young. And finally, kindergarten and nursery school are increasingly seen as desirable experiences for children even if their mothers do not work. The suburban mother whose 4-year-old is home all day may even feel guilty about it.

Since all these forces seem likely to continue operating in the same direction, there

will probably be an increasing proportion of mothers in the labor force whether the federal government embarks on a large-scale day care program or not. By the end of the decade, the non-working mother could find herself odd-woman-out.

More government-financed day care would doubtless accelerate the movement of mothers into the labor force, and enable some women to shift from part-time to full-time work. It might help some mothers now on welfare to move into the labor force, although it should be remembered that many of these mothers need more than day care to help them get steady work at good wages. They need education, training, work experience, and job opportunities.

Nevertheless, "the principal effect of a large-scale day care program would probably not be to increase the proportion of mothers who are working; rather it would be to broaden the range of child care arrangement available to mothers who have already decided to work."

To many people the word "day care" necessarily suggests a day care center—an institution taking care of a large number of children at once. But most working mothers do not use day care centers. They drop the kid at mother's, or maybe mother lives with them. They use relatives, neighbors, sitters, borders. They give the child a key and leave him on his own. Or they find another mother who is staying home anyway and is willing to look after two or three more children besides her own for a relatively modest fee. Some of these arrangements are good for children and some are dreadful—but that is also true for mothers.

A recent survey showed that day care centers (defined as facilities for more than six children) enrolled only a little over a half a million children in 1970—less than 10 per cent of the preschoolers with working mothers. Some of these centers are run for profit and others by nonprofit groups that often receive a government subsidy for caring for low-income children. The profit-seeking centers charge $10 to 20 a week per child and vary from good to abysmal.

The nonprofit centers usually have more staff and offer a rich educational program and, sometimes, health services and other benefits. The nonprofits spend about three times as much per child, on the average, but only a small part comes from parents. They usually restrict enrollment to children from poor or very poor families and have long waiting lists.

The result is a rather erratic two-class system in which *some* poor children (those fortunate enough to get into the subsidized centers) get better quality care than is available to families with somewhat higher incomes. The working mother with income slightly above the poverty line has the worst deal of all—unless she has a competent relative to turn to for free care. She earns too much to get her child into a subsidized center, but not enough to pay much for care. She does not even benefit appreciably from the newly liberalized income tax deductions for child care expenses. These benefits go mainly to people in higher tax brackets.

The important policy issue is not whether mothers should work—if they want to they will—but whether the public should take on new responsibilities for the well-being of children. Traditionally there has been little public concern for children until they reach school age and even then public responsibility has been limited to school hours. What happens to the preschool child or the school-age child after school hours has been considered a family responsibility, unless the child was badly abused or ran afoul of the law. But this *laissez-faire* attitude is now under attack, not only from women's lib spokesmen who believe that the public should provide day care so that mothers can make an easier choice between staying home and going to work, but by those who believe the public has a responsibility to enhance the development and capabilities of children as much as possible and that this can best be done by reaching them at a very early age.

The last argument combines fairly well established facts with an attractive but still unimproved hypothesis. The widely acknowledged facts are that children develop intellectual skills and capacities at a rapid rate in the first five years of life (especially the first three); that children from deprived homes get less stimulation and early education and start school with smaller vocabularies, fewer learning skills, lower IQ's than middle-class children; and that some experimental programs have succeeded in narrowing these disparities significantly—at least for a while. Unfortunately, the gains made by children even in the most successful early childhood education programs appear to fade out when the special programs end and the children are plunged back into the stultifying atmosphere of regular poverty area schools. The unproved hypothesis is that more comprehensive and sustained efforts to reach children earlier and longer—through parent-education, improved nutrition, early treatment of health handicaps, and a variety of part-day and full-day education programs—could make a permanent difference in their lives and build up a momentum that would carry on into the public schools.

The reason it is such a hard policy problem is that the potential cost could be very high. A really excellent full-day school program that provides enough staff to give children individual attention, plenty of space, play equipment, educational activities and routine medical attention costs at least $1,800 a year per child. Part-day activities cost less, but not a lot less. There are about three million preschoolers in poor families so a comprehensive preschool program for poverty children could cost $3–4 billion even if they did not all participate. But the real rub is that it would be politically impossible—and certainly unconscionable—to restrict such a program to the poor. Children from families with incomes of $8,000 or even $12,000 are not getting that kind of care now and their families could not afford to pay for it. A substantial subsidy, say $1,000 per child, to this group could cost several more billions.

A lot of us would rather have good preschools than a new nuclear-powered aircraft carrier, but that is not likely to be the choice we get. In the real world of politics the choice is more likely to be between spending substantial sums in early childhood programs and spending them on improving junior high schools, providing college scholarships or easing the plight of the aged poor. If you can get your friends arguing about these hard choices—rather than about whether mothers should work—you will at least have moved them off a spurious issue and onto a really serious and difficult one.

THREATENED DOCK STRIKE

Mr. FANNIN. Mr. President, once again we are being threatened by a dock strike on both coasts of our Nation.

Such a strike would be disastrous not only for the shippers or for business in general, but it would be a severe blow to the average American.

Union leaders are threatening to be their dictatorial worst because they have failed to win the full amount of the inflationary wage increase they exacted on the west coast.

These threats are causing concern even among legislators and journalists who in the past have contended with great consistency that labor can do no wrong.

Mr. President, one of the journalists is Milton Viorst, whose column appeared Monday in the Evening Star. I ask unanimous consent that the column be reprinted in the RECORD.

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

[From the Washington Star, Mar. 20, 1972]

RIGHT TO STRIKE HAS ITS LIMITS

(By Milton Viorst)

The prospect of resumption of the West Coast dock strike—the consequence of the Pay Board's compromise finding on a labor-management wage settlement—raises important questions about the future of union power in American society.

First, it poses the problem of whether the labor movement is to be allowed to destroy the effectiveness of the administration's program of wage-price restraints, which on the whole has been working rather well.

Harry Bridges, president of the West Coast International Longshoremen's and Warehousemen's Union, had threatened to strike if "as much as one cent" was lopped off the settlement which the union negotiated independently with the shippers. George Meany, president of the AFL–CIO, has said he would support Bridges right down the picket line.

In fact, the Pay Board reduced the original settlement from 21 percent to 15 percent, which is a far cry from the 5.5 percent target it had established for wage raises. Obviously, the Pay Board was not indifferent to the longshoremen's threats, even if it did not capitulate completely.

Yet it is clear that if the longshoremen, by going on strike, force a larger settlement, then none of the Pay Board's decisions will be worth the press releases they're written on—and President Nixon's wage-price program will be shattered.

Because of the impact on overall economic policy at a critical time, then, the prospect of a walkout raises a second, even more fundamental question: Whether unions have an inherent right to strike whenever it might suit their fancy.

There certainly was a time when I would have answered with an unequivocal "'yes." Those were the days when unions were fighting for their existence—against the hostility not only of employers, but usually of government and the courts. The left never doubted that the union was always right.

But the great labor struggles of the past—the Homestead strike, the United Auto Workers against Ford, John L. Lewis and the coal miners—represent a purer day of the union movement. As often as not these days, labor disputes are waged not so much against employers, but against the public and, often, against nonunion labor.

The current dock dispute is a good example. Both sides are going through a charade of who should benefit most from a reduction of some 30 percent—thanks to new technology—in the handling costs of cargo.

Obviously, it occurs to neither side to reduce prices.

Instead, the two sides make angry faces at each other and wind up with a sweetheart contract in which labor gets the wages it wants and management sets the prices it chooses. In such circumstances, it's hard to get emotional over labor's cause.

Yet Meany insists that labor has a constitutional right to go out on strike, nowithstanding economic policy and the Pay Board It is curious how the Constitution becomes the last refuge of the economic royalists, no less so because the barons today are from labor as much as from management

For myself, I have looked in vain through the Constitution for the right to strike. It seems clear that workers have the right to seek to coerce employers by a common refusal to work.

But I find nothing which says unions have the right to create economic paralysis or to deprive others of their living. In short, my own freedom reaches its limit when I hurt someone else. I have the right to free speech, but not to cry "fire" in a crowded theater.

And so the third question: Should the Administration and Congress enact legislation requiring compulsory arbitration, for instance, when the well-being of society is involved?

Meany says such legislation would mean the destruction of free enterprise and would be the "antithesis of freedom." That's what the drugmakers said when told they had to make safe drugs, and what the steelmakers said when told they couldn't fix prices.

I say the right to strike has limits, like the right to threaten panic in a theater. Labor and management can fight their battles out to their hearts' content, but only so long as much or all of society isn't made to suffer for them.

ADDITIONAL INFORMATION ON PROPOSED AMENDMENT TO THE AGREEMENT FOR COOPERATION BETWEEN THE UNITED STATES AND JAPAN CONCERNING CIVIL USES OF ATOMIC ENERGY

Mr. PASTORE. Mr. President, on March 15, 1972, the chairman of the Subcommittee on Agreements for Cooperation of the Joint Committee on Atomic Energy placed in the CONGRESSIONAL RECORD, at page 8543, a proposed amendment to the agreement for cooperation between the United States and Japan for the civil uses of atomic energy. On March 7, 1972, the Chairman of the Atomic Energy Commission testified before the Joint Committee relative to the AEC budget request for fiscal year 1973. At that time, he presented a supplemental statement relative to the proposed amendment to the agreement for cooperation.

For the further enlightenment of Senators, I ask unanimous consent to have printed in the RECORD the supplemental statement of AEC Chairman James R. Schlesinger relative to the amendment to the United States-Japan agreement for cooperation.

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

SUPPLEMENTAL AEC STATEMENT, AMENDMENT TO JAPANESE AGREEMENT FOR COOPERATION, FISCAL YEAR 1973 AUTHORIZATION HEARINGS, MARCH 7, 1972, BEFORE THE JOINT COMMITTEE ON ATOMIC ENERGY

Mr. Chairman and Members of the Committee:

It is a pleasure to have the opportunity to testify today on an agreement amending the existing 1968 Agreement for Cooperation between the United States and Japan.

Before going into details of this agreement, I should like to review briefly some of the international trade benefits which accrue to the United States as a result of our cooperation in the field of nuclear power with other nations of the Free World.

Insofar as the sale abroad of reactors and reactor hardware is concerned, U.S. industry's contracts to date covering such sales are estimated at $1.5–2.0 billion. Although these sales will decline relative to the total value of U.S.-type reactors constructed abroad in the future, they will continue to be large in absolute terms—through direct sales in the less industrialized nations and through licensing and equity ownership arrangements in the highly industrialized ones. We expect that the total value of all such U.S. contracts for reactors and reactor hardware through 1980 will be in the order of $20 billion, with an annual flow to the U.S. at that time of about $3 billion.

Not only are U.S.-supplied enrichment services vital to the sale of U.S. reactors and hardware, but they themselves also make a major contribution to the U.S. balance of trade. As of February, revenues received from abroad for enrichment services totaled approximately $150 million and the long-term value of executed AEC contracts for such services amounted to some $1.8 billion, at today's separate work charges. Further, by 1980, we expect that the value of AEC's enrichment contracts with foreign customers will amount to about $27 billion, and that annual revenues at that time will be approximately $400 million. By 1985, the cumulative value of life-time enrichment services needed for reactors abroad utilizing enriched fuel will be some $42 billion. We expect that much of this market will be available to U.S. enrichment supply if a positive attitude is continued toward the provision of these services to the foreign market.

In total, then, foreign sales of reactors and reactor hardware together with related enrichment services currently are contributing some $700 million a year to the U.S. balance of trade and this is expected to rise to a level approaching $3.5 billion by 1980.

In the field of enrichment services, Japan is today our largest individual customer and is expected to be so for the foreseeable future. Our present agreement with Japan has a ceiling of 161,000 kilograms of U-235, which when reduced to an equivalent value of separative work, is about $880 million at current charges; about 70% of this total already has been placed under firm enrichment contracts by Japanese utilities. The proposed amendment would increase this ceiling by 174,000 kilograms, with a comparable separative work value of $960 million. The amended ceiling thus totals 335,000 kilograms of U-235. It will be available to Japan over the life of the current agreement, which expires in 1998, and will support a Japanese nuclear power program of about 17,500 MWe in some 26 projects. The separative work necessary to sustain this latter quantity of enriched uranium fuel has been factored into our plans for enrichment services and we are confident—as pointed out in the companion opening statement on Nuclear Fuel Supply—that adequate enrichment capacity will be available.

Regarding the 26 projects I have just mentioned, these are identified in a revision of the appendix to the 1968 Agreement. The revised appendix is included in the diplomatic notes before the Committee, which we have used to effectuate the amendment of the U-235 ceiling. The new appendix reflects the addition of 13 projects to the 13 listed in the current appendix. All are scheduled to be under construction by the end of 1973.

I should like to note at this point that—with the exception of a few agreements which involve relatively small amounts of enrichment services and which are in an advanced stage of negotiation—future Agreements for Cooperation will reflect a revised approach to enriched uranium supply. The principal revision concerns the point in time at which the AEC will consider an assurance to supply enrichment services to have been made. This change was referred to in the AEC's public announcement of June 8, 1971, on uranium enrichment services.

In the past, we have considered that our long-term agreements constituted an undertaking to supply the quantity of enriched uranium reflected in the U-235 ceiling provision of an agreement. Such an undertaking has been subject to the negotiation of appropriate supply contracts and has been carried out by direct supply of the enriched uranium product or through the provision of toll enrichment services. The quantity of U-235 covered by an undertaking was established on the basis of a specific reactor program reflected in an appendix to a long-term agreement.

Thus, at the time such an Agreement for Cooperation came into force, we in effect, set aside a portion of our enrichment capacity corresponding to the agreement's ceiling quantity. This approach, of course, had the inherent possibility that enrichment capacity might be encumbered which would not subsequently be taken up by firm contracts.

Such possibility was part of the reason for our extensive review last year of the AEC's overseas supply policies. The result of this review was the June 8 announcement stating that the AEC will continue to enter into long-term enrichment contracts with domestic and foreign customers but indicating that any commitment for supply of foreign reactor fuel—like those for the supply for domestic reactors—will occur only with the execution of specific supply contracts.

Except for those few agreements in the advanced negotiating stage, future agreements will provide that the AEC is prepared to enter into contracts for enriching services, subject to the availability of enrichment capacity, when a reactor operator has a requirement for such services.

Although, for purposes of control, the new type of agreement will continue to have a specified ceiling, this ceiling will merely place an upper limit on the amount of enriching services to be supplied for power programs and will not, as in the past, be an undertaking on the part of the AEC to supply. We expect to base such ceiling on the megawatts of nuclear power which the cooperating country plans to place under construction within five years from the time of the negotiation of the agreement.

While current agreements permit plutonium transfers for research, only a few permit such transfers for fueling purposes. We therefore propose in future agreements routinely to include provision for plutonium fuel transfers. This will accommodate the future market for plutonium recycle and, ultimately, fast reactor fuel. Any plutonium transferred by the AEC itself would be subject to a ceiling limitation, which we would expect to be relatively small since we do not consider ourselves as a supplier for this purpose. Privately arranged transfers would not be subject to the ceiling, but they would, of course, be subject to the same safeguards as AEC-supplied material.

This concludes my prepared statement. I will be pleased to answer any questions you may have. Thank you.

FEDERAL SUPPORT OF CANCER RESEARCH

Mr. NELSON. Mr. President, J. D. Watson, professor of biology at Harvard University and director of Cold Spring Harbor Laboratory, Nobel Laureate in medicine and physiology, and author of the book, "The Double Helix," has written some interesting observations about the increased Federal support of cancer research.

He is concerned that large sums of the $1.6 billion authorized by Congress in the Conquest of Cancer Act will be spent on research that produces short-term results and on construction, at the expense of important long-term basic research that is critical to cancer discoveries.

In fact, the administration budget proposal for fiscal 1973 contains $60 million for construction of cancer treatment centers, including $49 million for 15 new clinical centers authorized by the law.

The public is encouraged by the sud-

den input of vast sums of money for cancer research, and clamors for early success in curbing this dread disease. Watson warns that, if accomplishments are to be achieved, the money must be spent in an orderly, planned way, which maintains a perspective on the necessity to support basic research.

He also encourages young scientists to group together and participate in the planning and research.

Watson states:

The recent Congressional verdict to keep cancer research decentralized within the NIH framework strikes me as a wise decision.

However, Watson notes:

The NCI (National Cancer Institute) administrators can opt primarily for long-term results by allocating a significant portion of the money to learning the precise chemical details of human cells. Or they can blanket much more cancer therapy under the umbrella of "clinical research" and use virtually all the new money to construct a series of brand new hospitals, with emphasis on regions now lacking the hospital resources of major medical centers like those existing in Boston, New York and Houston.

Watson warns:

Most likely the NCI (as would have the super-agency if it had been created) will put its money largely on the short-term option.

He fears that—

Barring the emergence of radically new ways to cure the major cancers, the chief effect of a massive new round of hospital-building will be to provide more cheerful places to die.

An editorial in Biomedical News, March 1972, by Robert H. Grant, public affairs director for the Federation of American Societies for Experimental Biology—FASEB—suggests that—

The scientific community—each and every scientist—must play a role in the support of scientific research. If this does not occur, the dismemberment of NIH is not far off.

Mr. President, I ask unanimous consent that the article by Dr. Watson in the New Republic, February 26, 1972, and the editorial by Mr. Grant from Biomedical News be printed in the RECORD.

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

[From the New Republic, Feb. 26, 1972]

WHO SHOULD GET ALL THAT NEW MONEY?—THE CANCER CONQUERORS

(By J. D. Watson)

The distinction between pure and applied science is more often made by politicians than by practicing scientists. We seize upon a phenomenon because some aspect of it intrigues us, not the least being the possibility that it is not as messy as most people in the past have thought, and that some insight on our part will make it readily explainable in terms of laws of nature that already have wide acceptance. We, of course, worry whether an explanation has wide generality or whether its consequences are so specific as to interest only its discoverer. And we do not relish the thought that we may have tackled a problem so easy that many others will jump in, and credit for the discovery will be synonymous with victory at bingo.

Outsiders now witnessing the current dash to enshrine work in cancer research with the fearless computers and chrome-plated environment that marked our past devotion to the moon's surface must wonder what motivates this new breed of public figure. Are they the same people who a few years ago flourished in immaculate Houston suburbs, but now know that our nation is fed up with the military and space and that Congress is more than uneasy for being a willing partner in the Vietnam that we masked with the platitudes of national esteem and parochial self-righteousness? We must wonder to what extent the current American hysteria to conquer cancer within the next decade arises from the feeling that an infirmity which strikes without respect for social, racial, or economic class must be an easier objective than a moral cancer which grows out of a nation's incapacity to acknowledge the conveniently remote victims of its surgical bombing strikes.

For now, our people are fed up with the catastrophic misuse of their resources by a succession of Presidents that their congressional representatives have been unable to control. They would like to strike back and actually see some public good. The question thus becomes, have they seized upon a suitable goal or have they again been sold a bill of unattainable goods, this time by a brand new set of lobbyists who, despite their noble outpourings, are all too easily matched up with a constituency afraid of their future and worrying whether Congress' support of health research will last until their kids are out of college?

For an honest answer, we must examine the current state of cancer research and, in particular, look at the origins of the various scientists who have settled for this career. Are they in cancer institutes primarily because of humanitarian feelings, working tirelessly to bring a halt to this most vicious form of human suffering? Or were their career choices the result of the widespread knowledge that cancer money is both the easiest to obtain and the most difficult to choke off and that it is better to do dull science than no science at all? Or are they motivated primarily because cancer is a phenomenon filled with countless intellectual puzzles that must inevitably attract some of the best of our scientific minds?

Without difficulty we can pinpoint individuals who fit each of these pigeonholes, as well as others whose motivations are more complex. The vast majority, however, are in cancer research from a personal desire to alleviate suffering, being supported by various personal and governmental monetary funds specifically created to provide the wherewithal to somehow check cancer. Today most cancer research is carried out by medically trained people who, after becoming frustrated by their inability to alter the course of most cancer cases, have decided that a career in clinical research would be much more satisfying than a lifetime of effectively impotent ward rounds. To be sure, there also exist many individuals who have chosen cancer research because they smell easy money, and no doubt there will be even more if cancer money explodes in the fashion now predicted. But up until now, this latter group has not been a significant factor in the organization of cancer research, and to a very large degree the people who direct the course of cancer research laboratories are also deeply involved in the life and death aspects of the clinical wards associated with their research institutes.

They are more than aware of their dual constituency composed of the wretchedly sick and their anxious relatives, and so, at times, quietly despair for the emergence of even minor clues that will allow them occasionally to seem optimistic and expectant of real progress. Hampering any rationalization of their effort, however, has been the fact that there has existed no solid intellectual framework around which they could organize any rational attacks on the disease. No possibility existed of a meaningful interaction between the worlds of contemporary biology and clinical cancer research as long as there existed no comprehensive understanding of the fundamental principles that govern the existence of living cells. That is, as long as biology remained a disconnected set of unorganized observations, its knowledge could not be brought to bear on the cancer problem.

This was the dominant fact that led, early in the 1950s, to the creation of the National Institutes of Health (NIH). Largely on the advice of perceptive cancer clinicians like Sidney Farber of the Children's Hospital of Harvard Medical School and C. P. Rhoads of Memorial Hospital, New York, Congress was convinced that the rational way to ensure the emergence of new medical advances was a broad expansion of federal support for all aspects of biology. The stage would then be set for a spectacular growth in the basic biological principles, similar to that which occurred in physics and chemistry in the interval between the two world wars. Within a short time after the founding of NIH, increasingly large sums of money began to pour out in support of biology, not only from NIH itself but, also, from the National Science Foundation and the Atomic Energy Commission. Most pleasingly, this new infusion of cash was followed soon after by a series of signal advances in the understanding of how cells operate that greatly exceeded the prognostications of even the most rabid promoters of the new biology.

Given the 1953 elucidation of the double helical structure of DNA, the way had become open to work out how DNA functioned as the genetic material and by 1965 the genetic code was completely solved. Equally striking was the way we learned how viruses were constructed as well as the precise biochemical mechanisms which underlie their ability to multiply within cells to form thousands of exact copies. And the biochemists, who in the 1930s first began to learn how cells generate energy, went on to show how this energy was used in the synthesis of the cellular macromolecules, the carbohydrates, the proteins, and the nucleic acids.

Most of these new insights by themselves, however, have had little direct application to the problem of the clinicians in cancer hospitals. During the past two decades the vast majority of our biochemically inclined biologists focused their efforts on the bacterial cell. They did not want to risk almost certain failure by attacking the much more complicated cells of human beings before they thoroughly understood the fundamental chemical rules that make possible the existence of the bacterial cell.

This was most certainly the right decision. A massive movement of the biological community into the cancer research of the 1950s and early 1960s would have led to almost no clinical consequences nor have produced much, if any, worthwhile science. By concentrating instead on problems that they could solve, not only have biologists elicited how heredity operates at the molecular level, but they also have acquired, for the first time, a solid professional status long the trademark of the chemist and physicist. No longer is a biologist arbitrarily thought to be an intellectually inferior breed of scientist. And because of the innumerable remaining major intellectual challenges still facing biology, it attracts, for the first time, many of the best students who wish to do science. On the whole, most opt for work with the higher cells of vertebrates, not because they know this is where the money lies, but because animal cells now seem intriguingly tractable, in much the same way that bacteria looked to me twenty-five years ago when I first began to work in a university laboratory.

For fields of science have their own momentum or nonmomentum, depending on whether the current experimental techniques are capable of moving them forward. Often it is all too obvious that a given key question cannot be answered with the cur-

rent instrumentation and that, barring some unexpected insight, it is best left for another generation of scientists to take up. This may very well be the case today in the fields of human perception and memory where the frightful anatomical complexity of the vertebrate brain poses a virtually impenetrable jungle for even the most talented experimentalists.

In contrast, there exists a firm basis for the belief that the essential biochemistry of human cells can be worked out within the next decade or two. Even though today we still are completely in the dark about how vertebrate chromosomes function and have no good ideas about the detailed architecture of the outside surfaces of normal cells, much less those of cancer cells, there already exist the experimental techniques and machines which, when correctly applied, should quickly lead to important new concepts. This is not to say that further advances will be straightforward. Future progress with mammalian cells will be strongly influenced by the organizational setup within which the individual scientist works.

The most effective labs are likely to be those in which large numbers of people with closely related interests work simultaneously. While no doubt many key findings will come from solitary individuals working with total indifference to their neighbors down the hall, in general I do not believe this approach will be productive. This is because the inherent complexity of the mammalian cell may be several orders of magnitude greater than that of the now familiar bacterial cell. A given experiment with a mammalian cell usually takes some ten times longer and requires a correspondingly greater sum of financial support. Conceivably, someone will come up with a really cheap way to experiment on human cells, but the odds now are much against it. Common sense argues that many more people must be involved in establishing a given point than where bacteria are the object of investigation.

We thus must create the organizational framework which not only makes possible, but strongly encourages, the development of research groups of some 10–50 scientists, all of whose research focusses on the fundamental molecular biology of higher cells. Numbers this size will allow each lab to possess the variety of complex instrumentation often necessary to carry out key experiments. Today it no longer makes sense to regard experimental biology as a cheap science, with high-energy nuclear physics the only big consumer of scientific money. Setting up a minimal lab for higher cell work can easily take more than $150,000, an amount of money far greater than that now usually given to single investigators. But sums this great are likely to be allocated only when the granting agency knows that the equipment it provides is to be used by a number of different people, not when its use is solely the privilege of one person.

I am not, however, advocating the creation of huge establishments with all the power closely controlled by superstars who daily direct their Ph.D. minions to do this or that particular experiment. Such enterprises, which still characterize much of European and Russian science, occasionally are sensationally effective, but on the whole, they are dull factories with the only inspiration coming from the quality of the furniture and rugs in the director's office. Instead, I am thinking of institutes like the McArdle Laboratory at the University of Wisconsin. There within one bright new building are some ten totally independent investigators, each a professor in the university and free to choose his own research objectives. All have research which focuses on a problem in cell or molecular biology that relates to some important aspect of cancer research. They received most of their research support from a large block grant ($1 million a year) from the National Cancer Institute. Unfortunately, this lab is still an exception on the American scene—and the average scientist who might possibly do something very relevant to the cancer question works by himself helped by a few students in an atmosphere too often characterized by grossly inadequate instrumentation.

Hopefully, those institutions which will be the recipients of much of the largesse coming from the newly voted cancer research funds will be those which make staff and space commitments that will quickly permit the creation of large labs with a critical personnel mass. Such decisions, however, will not be taken lightly by intelligent university presidents or medical school deans. Already most schools have staffs larger than their real financial resources warrant, and another round of expansion of research facilities should necessarily unsettle the equilibrium of any sensible administrator. For he knows that not only is money from a federal pipeline subject to highly unpredictable fluctuations, but even in the best years, the way federal money is given almost always ensures the need to raise additional funds to cover the true overhead.

Our nation's medical schools and universities thus cannot afford to increase their commitments to fundamental cancer research unless they receive assurance that Congress appreciates the difficulties that may lie ahead. Serious doubts whether Congress will continue to hold interest in cancer research unless solid new clinical successes are soon forthcoming will certainly scare off the sensible and leave the field to a combination of charlatans and fools. Even if the coming decade is marked by virtually unlimited money, observations with real therapeutic consequences may not occur and might only appear after still another decade or two of massive federal aid.

Knowledge of these harsh facts was certainly a key component in the creation two years ago of Senator Yarborough's Citizens Committee to assess the current status of cancer research and treatment within the United States. When it came into existence, the aura of financial stagnation that prevailed throughout the scientific community, together with the attendant corollary that we have more scientists than we can feed, argued strongly against further expansion of cancer research. Had the Yarborough Committee not materialized, the pace of fundamental cancer research within the United States would soon be far less than our national capability.

Instead our country took most seriously the message that the time had now arrived to make use of the "new biology" and directly apply it to cure (prevent) most cancers. Backed by the testimony of some one hundred expert witnesses, the Yarborough report urged expanded programs of pure cancer research as well as the politically more palatable goal of increasing the number of medical centers that can provide modern cancer therapy. Though many of us take issue with one or more of its arguments that we feel are overly optimistic, it is difficult to quarrel with the general conclusion that more good cancer research is needed. Its congressional proponents knew they were backing a sure thing and that to oppose it was equivalent to voting for another Vietnam. Passage of some legislative program to provide more money for cancer research was thus in the cards the moment the Yarborough report came out. It was to no one's surprise that strong executive as well as congressional support immediately coalesced around the program and the "Conquest of Cancer" legislation quickly became law.

We must not assume, however, that the battle is over. Unless the money is well spent, vast sums will be passed out without visible long-term influence on the treatment of most cancers. This disquieting thought was behind most of the controversy in Congress as to whether a brand new cancer agency, under some superczar, should be set up independent of the National Institutes of Health, the federal body now responsible for most health-oriented research. Proponents of this scheme argued that the current bureaucratic setup within NIH was ossified, and that much forward momentum could be generated by giving more real power to the true cancer researcher, whose freedom for action was often unnecessary restricted by administrative hurdles.

Against this, opponents of the superagency argued strongly for keeping cancer research within the domain of NIH. Behind this seemingly conservative approach was the argument that most fundamental cancer research is so interconnected with other forms of medical research that to separate it might so confuse the purpose of NIH as to lead to its essential dismemberment. Also making many scientists and clinicians leery of abandoning the NIH framework was the fear that the creation of a powerful czar would lead toward a monolithic research effort disproportionately influenced by the prejudices of a small number of opinionated operators. One of the greatest virtues of the NIH has been its capacity to give support to all sorts of different ideas. Given the unpredictable nature of research, this approach maximizes the probability that something really new and pertinent will pop up. Putting all our eggs into only a few baskets would make sense only if the cancer problem were much more highly defined than is now possible. Conceivably there exists some individual whose ideas about the cancer cell are worth five million or so dollars to test, but I have yet to meet him.

Moreover, the National Cancer Institute (NCI), the component within NIH primarily responsible for cancer research, now utilizes either as direct employees or as active consultants virtually all of the frighteningly small number of Americans capable of giving intelligent direction to the cancer area. There is no group of unused talents today that could be brought into the government to supplement the preexisting advisors. A super cancer agency, if it were voted into being, would in essence be the National Cancer Institute renamed, not a brand new entity with its own new ideas.

Cancer research already is, and will become even more, a highly trained discipline requiring many years of professional training in biochemistry, cell biology, immunology, and molecular biology. Thus, newly created cancer programs cannot use the highly trained professional now underemployed because of cutbacks in the aerospace industry. Such people could be utilized only if they were to begin their education anew and acquire new professional degrees. Recruitment of the many new professionals who will be needed for the cancer research of the next decade most likely will occur from students already, or soon to be, enrolled in conventional M.D. and Ph.D. programs that are now supported by one or more of the various branches of NIH. At least for some years we must substantially enlarge these NIH-backed training programs, so as to ensure that research on cancer uniformly acquires the high professional standards long associated with the physical sciences.

The recent congressional verdict to keep cancer research decentralized within the NIH framework strikes me as a wise decision. The administrative ball game thus is back where it started, with the National Cancer Institute still the dominant agency controlling how cancer money is dispensed. And as before, the existence of scores of different advisory bodies will ensure that many fingers are in the pie. The NCI administrators can opt primarily for long-term results by allocating a significant portion of the money to learning the precise chemical details of human cells.

Or they can blanket much more cancer therapy under the umbrella of "clinical research" and use virtually all the new money to construct a series of brand new hospitals, with emphasis on regions now lacking the hospital resources of major medical centers like those existing in Boston, New York, and Houston.

Most likely the NCI (as would have the superagency if it had been created) will put its money largely on the short-term option. In doing so, they will optimistically argue that preexisting methods of therapy might have to be only slightly modified to produce real dividends, and that the best way to ensure that the right new protocols for treatment are devised is to create new hospital centers specifically designed to decide between alternate methods of therapy. But from cruel experience, the leaders of NCI must inwardly fear that, barring the emergence of radically new ways to cure the major cancers, the chief effect of a massive new round of hospital-building will be to provide more cheerful places to die. The main dilemma the clinician lives with is not his failure to keep abreast of new discoveries which could cure his patients but the essential absence, in even the newest cancer hospitals, of effective ways to check virulent cancers like those of the breast and the lung. Setting up speedy all-inclusive information exchanges to reshuffle current knowledge is likely to enrich only the stockholders of computer companies. But the average citizen, as well as his congressmen, will badly want some short-term result to show for his money and so will be reassured by the sight of a fine new edifice, equating glitter with more effective therapy. We must expect that much, if not most, of the new cancer money will buy patient care, not true research.

Fortunately, however, the massive funds just voted by Congress mean that even a small share of the pie is a lot of money and most likely sufficient to create a large number of first-rate new research groups whose existence would be impossible without the new money. The real question thus becomes will this happen or will the NCI leadership just pour out the money without any real plan of action?

My suspicion is that the answer will largely depend upon the action of the younger scientists just entering cancer research. Even if the NCI bureaucracy upon the advice of its advisory committees decides to back the formation of exciting new labs for fundamental animal cell biology, they are unlikely to know how to move. We must remember that until very recently most creative scientists avoided "cancer research" as if it were the plague. They smelled an impossible task and did not want to enter an intellectual graveyard. Now there does not exist a confident body of senior cancer workers who armed by past success have much feeling for what the future may bring. The scientists who probably have the best ideas as to which experiments make sense and how they should be accomplished are individuals in their late twenties or early thirties. But on the whole, they have been brought up to face a world not only where the real power is held by their elders, but where common sense says to stick closely to the lab bench and grind out enough real science so that tenure will come; then they can stop worrying whether they can do science. At their age it is all to easy to equate committee membership with premature stuffiness and a secret desire to let one's students and postdocs do all the night work.

They must realize, however, that at this critical moment, there is no organized or even disorganized group of wise decisionmakers who will map out their science. The only predictable object above them is the bag of free money that our nation's people want well spent. It is much too big to sit unused for any period and very likely will fall upon those who ask for it first. So if our better younger biologists get together and quickly ask to set up flexible and nonauthoritarian new departments (institutes) the financial wherewithal can be found within the NCI and eventually the universities to let such bodies come into existence. But if they timorously sit back, the current superstars on the cancer scene will get even more money to bolster their egos. Then we will have to wait until still another Yarborough type lobby materializes before cancer research can be established in the United States as a serious academic discipline.

Some may argue that this decision is far too important to be left in the hands of the young. But we have no other choice. No other group can do the job, and it is they or nothing. We will be remiss, however, not to warn them if they act individually, leaving the important administrative if not scientific decisions to good intentions in Washington, they may very well have lost their only opportunity to face a wide open frontier.

And the American Public will once again wonder where their money has gone.

[From the Biomedical News, March 1972]

NIH: CHALLENGE TO ITS FUTURE

(By Robert H. Grant)

Gone are the days when John E. Fogarty, chairman of the House Appropriations Subcommittee on the Departments of Labor and Health, Education, and Welfare, asked the directors of the National Institutes of Health how they would invest $5-, $10-, $15- or $20 million more in research at the various Institutes. Fogarty, a former bricklayer who became a distinguished member of Congress, laid the foundation for the nation's greatest research enterprise—the National Institutes of Health.

A review of the Administration's FY 1973 budget for NIH reveals a not-too-bright future. The increases appearing in public documents on the NIH budget are, for the most part, eliminated by the deletion of $142,385,000 for construction grants, $700 million in construction grant applications has been returned by NIH to various universities and medical schools. This indicates a cessation in the construction of health facilities for education, research, and the health sciences. This deletion is not understandable in view of the Administration's stated desire to increase the physician population by an estimated 50,000. The overall NIH budget, in reality, has less than inflationary increases. There will be fewer grants and contractors for FY 1973.

Have we entered a new era? Last year an all-out effort was directed toward the "thrust on cancer" with power exerted to separate the National Cancer Institute from the NIH. NCI received a considerable increase in funds, but final legislation kept that Institute within NIH. This year steam is being developed to do the same for the National Heart and Lung Institute, while back in the smoke-filled rooms efforts are being whipped up for the National Institute of Neurological Diseases and Stroke.

Is science support becoming dependent on strange, new efforts by syndicated columnists, such as Ann Landers, with members of Congress being besieged by letters from individuals who read these columns? Let us get back on the track. The scientific community— each and every scientist—must play a role in the support of scientific research. If this does not occur, the dismemberment of NIH is not far off.

The strong man in the House of Representatives now is Congressman Paul G. Rogers, chairman of the Subcommittee on Public Health and Environment. From everything we hear and see, Congressman Rogers plans and intends to keep NIH intact. He needs your help and so does the White House and the Office of Management and Budget!

IN DEFENSE OF THE LOWLY SHEEP

Mr. HANSEN. Mr. President, those of us from the West who are aware of the conditions under which sheep are raised, and the contributions which the sheep industry makes to the economy of the West, have tried to explain these things to others less familiar with this industry.

But I have never seen the facts more eloquently and forthrightly stated than in a recent edition of the Bulletin, the weekly newspaper of Buffalo, Wyo. In an article entitled "A Word About the Sheep Industry," the point is well made that the terrain and climate of the West is uniquely suited to the production of sheep, and that sheep do not harm the environment, but survive in areas where no other animal providing food and fiber for man could survive.

About sheep, the article notes:

He is a unique animal in his ability to produce food and fiber for man, then return to the earth to regenerate himself. All of his products and by-products are fully biodegradable and his life functions require nothing more than what mother nature can provide in an un-ending cycle.

The article points out that sheep can live and reproduce in the arid areas of the West in complete compatibility with nature, with a single exception—the coyote.

In connection with the controversy over predator control, understanding is needed on both sides of the issue. This fine article very eloquently and accurately sets forth some important facts on the side of the producer. I ask unanimous consent that it be printed in the RECORD.

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

A WORD ABOUT THE SHEEP INDUSTRY

(NOTE.—The Sheep Industry has, in recent times, come under much criticism by a variety of different ecology minded interest groups. These pressure groups feel they have a just cause in getting sheep off federal lands, stopping of predator controls and restoring nature to what is called "a natural balance.")

Our environment, whether public or private, must be preserved for future generations and it cannot be argued that man has been less than careful with his environment. It also cannot be argued that man has a right to be here.

Man must have food, fibre and shelter to survive. He obtains these three items in one of two ways. By growing the raw products and manufacturing the finished product, or by mining the raw products and manufacturing the finished product.

It should be evident that mined raw products will in time become more and more depleted. Because of this fact it seems logical that in man's long term look at his environment, he should start to concentrate his search for food, fibre and shelter on products that will in time degrade themselves and regenerate themselves.

The lowly sheep fits this need well.

He is a unique animal in his ability to produce food and fibre for man, then return to the earth to regenerate himself. All of his products and by-products are fully biodegradable and his life functions require nothing more than what mother nature can provide in an unending cycle.

To sustain life and produce meat and fibre

he requires no additional sources of protein than those found in his natural food stuffs.

This is in contrast to other meat producing animals such as pigs, cows, chickens and turkeys. Thereby, the sheep does not have to compete for tilled protein sources in our increasingly protein short world.

The sheep can live on low grade forage areas of the world that will not sustain other forms of forage eating livestock. He can survive and produce on low rainfall areas of the world, even in areas where snow provides the only moisture.

No other domestic food and fibre producing animal has this unique ability. In short the maligned sheep produces for man's benefit on areas of the earth that have little economic value to man or to meat species of wild game. Those species of wild game that do inhabit sheep range do so in complete compatability.

This is with the exception of the coyote, a predator not only to the sheep, but to other wild forms of forage utilizers.

The coyote is now the center of a national controversy. It is argued that to use control measures of any kind against him is to upset the balance of nature. These same environmentalists that advocate no predator control see no conflict with rat and mouse control within the confines of their home or city.

Some unreasoning environmentalists do not take into consideration that wool, cotton and linen are the only biodegradable fabrics in large use today. The synthetic fabrics require mining of the earth's crust for their basic raw material and energy from the earth's crust to refine the raw products into cloth.

This process requires vast amounts of energy in a world with dwindling energy supplies. The sheep requires no energy other than the sun and soil to produce the versatile wool.

These are facts about an industry that is the economic support of many small towns in Wyoming. The fortunes of the sheep industry will directly affect the jobs of many people in these communities. It is up to us as citizens under a free government to stand up and be heard about the injustices being done to the sheep industry. Not only for our own economic good, but for the good of the environment for future generations. The sheep industry is a clean industry serving a definite need. It is compatible with many other recreational and natural uses of the land.

Write your Representatives in Washington, D.C., and tell them of your feelings. In addition, buy and wear wool and eat lamb. It is your pocket book and your environment.

PROBLEMS OF THE WELFARE SYSTEM

Mr. FANNIN. Mr. President, the Committee on Finance is struggling to unravel some of the perplexing problems in our welfare system.

The deeper we wade into this quagmire of welfare, the more it becomes evident that money alone will not cure the problem. It seems evident that increased welfare payments without meaningful reforms will multiply the problems rather than cure them.

Increased payments would simply encourage more persons to go on welfare.

Two articles in this morning's New York Times give evidence as to the complexity of the welfare problem and the mess we currently have in the system.

One article points out that 32,000 drug addicts are on the welfare rolls in New York City, and the number is growing by 1,400 per month. In other words, taxpayer money is being channeled through welfare recipients into the hands of traffickers in illegal narcotics. We are supporting the drug habit of thousands of persons.

The other article reports that more than 70 percent of the births to mothers on welfare last year were out of wedlock.

This fortifies the argument that a means must be found to require the fathers of illegitimate children to provide money for the support of their children. In New York City 16,622 illegitimate children were born and added to the welfare burden in 1971.

Mr. President, I ask unanimous consent that these two articles be printed in the RECORD.

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

ADDICT A GROWING WELFARE PROBLEM

(By Paul Montgomery)

The addicts arrived in the smoky morning at the Bergen-Willis Welfare Center in the South Bronx and waited through the junk-sick afternoon for the checks to come out.

On the main floor of the Willis Center, where employes walked out last week to dramatize their demand for better police protection, the addicts took up half the room. Like the other clients who jammed the rest of the grim area, they were there because they had not received the biweekly check of March 15, or said they had not received it.

In the addicts' corner, the clients, most of them young, sat unsmiling. A few glared out at the crowd and commotion; most looked listless and blank. One was doubled over, writhing with withdrawal cramps. A pretty teen-aged girl sat sideways on a chair, gripping her sides. Her eyes were swollen to slits. "I don't know what's happening. I don't know what's happening," she kept saying.

The scene is common at most welfare centers on the few days after "check day"—the first and 15th of the month. Losses of checks in the mail and thefts from mailboxes, are frequent in the South Bronx. It is also not uncommon for clients to temporarily double their biweekly income by cashing the check, claiming its loss, and getting another. In the normal course of events, it is a month or two before the accounting department catches up (the excess payment is then deducted in equal installments from six succeeding checks).

For addicts, however, the difficulties are trebeled. Since their caseworkers generally have much more work than those for non-addicts—addicts make up 2.5 per cent of welfare recipients, but 12.5 per cent of welfare transactions—they must wait two or three times as long for attention. Also, their stories merit the maximum of suspicion.

For an addict on methadone maintenance, there is an additional burden. If he wants his check, he will usually have to wait most of the day at the center. That means he must forgo his daily maintenance dose, and suffer the attendant pain of withdrawal.

Last week, Human Resources Administrator Jule M. Sugarman said that the addicts on the rolls—32,000 at present, and growing by 1,400 a month—had brought public assistance to "the verge of serious breakdown." Caseworkers who deal with addicts at the Bergen-Willis Center, at 414 East 147th Street, do not agree. They see the roots of the crisis in what they regard as the bottomless inefficiency of the welfare system, ranging from senseless filing procedures to a grave shortage of caseworkers.

"He's trying to blame the people on welfare instead of the system," said Malcolm Slaughter, a caseworker, of Mr. Sugarman's statement. "The real point is that the system doesn't work. It's hard to say what should be done, but what's happening is inhuman."

The trouble at the Bergen-Willis center began March 6, when an addict threw lye in the face of a supervisor there. According to his caseworker, the addict had just been released from Rikers Island and was in his third day of waiting for attention at the welfare center when the attack occurred.

The attack was one of a series of violent incidents at the center, and last Wednesday 400 employes walked out to demand increased protection. At the Bergen center, a few changes were made—the addicts, previously kept in a separate caseload group, were dispersed among regular clients, and waist-high plywood corrals were erected to control crowds. Additional policemen were stationed in the building, though yesterday only three of the promised 10 patrolmen showed up when the doors opened at 8:30 A.M.

Mr. Slaughter and his colleagues, however, regard the security issue as merely a sidelight on the basic issue of reform. "We can have 100 patrolmen, but if we don't get more caseworkers it will just get worse," said one. According to the group, the average case load has gone from 90 to more than 200 a caseworker in the last few years.

In some ways, the center shares the neglect of the area. The building is virtually the only one on the block which has not been burned out or emptied by vandals; in the early morning, smoke from garbage fires and fires in the buildings hangs in the air.

City services in the area are at a minimum. Yesterday, at the center, a sanitationman stuck his head in the door and inquired "Is there a demonstration here today?" A welfare worker said there wasn't. "Then why the heil did my boss want this stuff picked up?" the sanitationman asked, motioning at the garbage in the street. Then he left. The worker explained that when the citizens of the South Bronx schedule demonstrations, the Sanitation Department cleans the street first for the benefit of the television cameras.

ILLEGITIMACY RISE ON WELFARE CITED—ASSEMBLYMAN'S STUDY FINDS 70 PERCENT OUT-OF-WEDLOCK BIRTHS

(By Peter Kihss)

More than 70 per cent—16,622—of births to mothers on welfare last year were outside of wedlock, according to a study made public yesterday by Assemblyman Andrew Stein. The figure represents a continuous rise in the proportion of out-of-wedlock births to welfare mothers since 1960, when the rate was 57 per cent.

Mr. Stein, a Manhattan Democrat, decried delay by the State Department of Social Services in seeking Federal funds available since 1969 that would pay for 75 per cent of the cost of family planning services for current, former and potential welfare recipients.

He called for state programs for "mobile vans, sound trucks, mailings, advertisements in newspapers widely circulated in poverty areas" to spread word of available methods of birth control. He also urged the City Human Resources Administration to deploy caseworkers into areas with greatest needs for information.

State officials reserved comment. But a spokesman for City Human Resources Administrator Jule M. Sugarman said he had repeatedly submitted formal requests since his appointment in July, 1970, for required state amendments to a Federal aid plan to cover this and other services.

Mr. Sugarman's office said the state sent letters last Sept. 9 to localities on availability of the Federal financing, and had since Given "partial approval" to a family planning proposal for the city's Community Development Agency. The City Department of Social Services was said to have had 95,210 contacts on family planning last year, resulting in 17,854 referrals for services.

The Federal Department of Health, Education and Welfare said last April that only 12 states had taken advantage of a 1967 Federal law and subsequent implementing rules requiring states to offer family planning to all "appropriate" welfare recipients and to establish "programs aimed at preventing illegitimacy."

The study made for Assemblyman Stein is by Nicholas Kisburg, his consultant on a series of welfare analyses, gave the following data on births among welfare recipients in New York City:

Year	Outside wedlock	Total birth on welfare	Percent out of wedlock
1960	5,231	9,154	57.1
1961	5,922	10,277	57.6
1962	6,070	10,368	58.5
1963	7,392	11,994	61.6
1964	9,079	14,325	63.4
1965	9,836	15,112	65.1
1966	10,160	14,988	67.8
1967	12,208	17,770	68.7
1968	16,226	23,423	69.3
1969	17,192	24,965	68.8
1970	17,622	25,481	69.2
1971	16,622	23,643	70.3

Mr. Stein said last year's decrease of 1,000 might reflect wider availability to the poor of more effective contraceptives and reform of the abortion law.

The total out-of-wedlock births, he said, still represented 30 per cent of the year's increase in Aid to Dependent Children recipients. Absence of a father, he went on, would mean the children would lack family stability and discipline.

UNEMPLOYMENT IN URBAN GHETTOS

Mr. CRANSTON. Mr. President, unemployment in our urban ghettos long has been one of this Nation's most serious problems.

Today we have new evidence of the critical nature of joblessness in these minority population areas.

A study by the Manpower Research Center of the University of California's Institute of Industrial Relations reports that unemployment in Watts and East Los Angeles has reached "disastrous proportions."

The study revealed—

Unemployment has increased 10 to 15 percent in the last 2 years.

Over a 10-year period, in the face of all kinds of training and job programs, unemployment in the ghetto areas has worsened.

Total unemployment rates for all men aged 16 to 24 was 46 percent in the Watts area and 30 percent in East Los Angeles.

For teenagers alone the rate in Watts is 62 percent and in East Los Angeles 34 percent.

And what did the research team discover in its study of this problem? Exactly what you would expect. These unemployed young people are turning to crime—the so-called "street economy" that deals in drugs, gambling, prostitution, pimping, and similar activities.

Mr. President, I ask unanimous consent to have printed in the RECORD a Los Angeles Times story of Tuesday, March 21, 1972, which describes the report.

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

MANY REPORTEDLY ENTER "JOB MARKET" VIA CRIME

ILLEGAL ACTIVITIES ARE MAIN SOURCE OF INCOME FOR EAST LOS ANGELES, WATTS YOUTHS, SURVEY FINDS

(By Harry Bernstein)

Marijuana selling and other illegal activities are the biggest source of income for young workers in the Watts and East Los Angeles areas where unemployment has reached "disastrous proportions," according to a major study released Monday at UCLA.

"After a full decade of national effort (to lessen the problem), there is now every evidence that the youth unemployment problem has worsened," the 257-page report said, adding that two-thirds of Watts teen-agers in the job market cannot find work.

Prepared with funds from the U.S. Department of Labor, it was written by Paul Bullock, research economist for the Manpower Research Center of UCLA's Institute of Industrial Relations, which released the report.

PURPOSE OF STUDY

The basic aim of the study was to determine the process by which young men in low-income black and Chicano ghettos enter the labor market.

For a great many, their earliest contact with the labor market is through the "subeconomy" or "street economy," the report said.

The report defined the street economy as "a market for the distribution of goods and services which are in demand, but have been outlawed for social or moral reasons."

This includes the production, sale and consumption of both "hard" and "soft" drugs, gambling, prostitution, pimping, and similar activities . . . but not theft or the sale of stolen property.

Neither present manpower programs nor a general growth in the economy has been effective in "controlling the growing unemployment problems in the ghetto communities," the study said.

Also, the study concluded that there is no evidence to show that a lower minimum wage for the minority community young people will increase their job opportunities.

Those studied in the UCLA staff project were young men from the ages of 16 to 24 who answered formal survey questions. Some of them took part in lengthy interviews to get data which Bullock said was "a great deal franker than usually comes from the formal questionnaires."

The total unemployment rates for all men aged 16 to 24 was 46% in the Watts area and 30% in East Los Angeles, but for teen-agers alone, 62% were without jobs in Watts and 34% in East Los Angeles.

Bullock estimated that the new figures represented an increase in unemployment of 10% to 15% within the last two years.

More than 50% of the teen-agers in Watts and a third of the Chicago teen-agers surveyed in East Los Angeles have dropped out of high school.

LACK OF GUIDANCE REPORTED

The report said that neither group "receives much useful vocational or career information from their schools, and although the schools have a required 10th grade guidance class, the overwhelming majority could not even recall taking it."

Despite a wide variety of government training and manpower programs, the majority surveyed "were not even aware of the existence of such programs, and unemployment seems to be as high among those with such training as it is among the untrained."

Job-seeking methods used generally in the poverty areas are similar to those used in nonpoverty areas, which means using parents and friends already located in permanent jobs to help the newcomers.

But the study showed the circular effect of unemployment in the poverty areas, where many young men come from homes where there is no male head of household or where the father has too much trouble getting his own job to be of help to the son.

The study said that the "relative lack of attention paid to the economic significance of illegal markets in the ghetto and barrio is a measure of the distance of many academicians from social reality."

"Rather than being of marginal or of uncertain importance, the (illegal activities are) probably the greatest single source of income for young men in the Central City.

"The consumption of marijuana is virtually universal among young men in the low-income ghetto," the report said, and then quoted one teen-ager as estimating that "you double your money mostly.

"If you pay $130, $140—you'll double that. Right on . . . but that's not including the risk, like you going to jail."

The study also contended that in addition to the middlemen who bring in the drugs to the community "there are political, legal and law enforcement representatives who provide protection in return for a direct or indirect share of the profits."

But in an interview, Bullock, researcher Jacobo Rodrigues and others who prepared the report declined to be more specific on the allegation, saying they did not insist that the young men give details of the allegations.

"But the point is of considerable importance because it illustrates the consistent historical relationship between the subeconomy and the larger society which has always tolerated criminal enterprises . . . in the ghetto subeconomies where such activities partly provide an income to poverty groups requiring no direct cost to the taxpayer . . ."

The report concluded by recommending among other things greater concentration on career development starting in junior high schools, new programs for getting young people jobs as aides in professional fields and government help to develop interests of the young people even when there is no immediate market demand, such as in the arts.

AMNESTY

Mr. CANNON. Mr. President, the subject of amnesty for those who have evaded induction into our Armed Forces has been proposed in the past, but the issue of amnesty for our POW's has never been mentioned.

In this connection, I ask unanimous consent to have printed in the RECORD an editorial on the POW–MIA issue, published recently in the Las Vegas Review Journal.

I feel it sums up in cogent manner the entire subject of prisoners of war and men missing in action.

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

HOW ABOUT SOME POW AMNESTY?

The question of amnesty for America's draft dodgers and Army deserters was given an airing in Washington the other day as numerous concerned persons presented both pro and con opinions before a subcommittee headed by Sen. Edward M. Kennedy, D-Mass.

It would be encouraging if somebody, somebody, somewhere, opened a forum on the question of amnesty for America's prisoners of war held by North Vietnam, some of whom have been in captivity for as long as six years.

Not one of this country's noble allies has brought the slightest pressure to bear on Hanoi. Not one statesman has spoken a word of criticism about Hanoi's treatment of these men. The voice of so-called world opinion remains mute—except when it comes to condemnation of the United States.

If this country held hundreds of North

Vietnamese prisoners virtually incommunicado for years, permitting only sporadic delivery of letters to or from them and their families, denying visits by Geneva Convention representatives and refusing to discuss the possibility of an exchange of prisoners, why, America's outraged students would be impaling themselves on the White House fence, their counterparts would be rioting in London and Paris and Berlin and bombs would be exploding at U.S. embassies and consulates in every capital of the world.

(We do, in fact, hold tens of thousands of North Vietnamese prisoners. Or rather, South Vietnam does, and has made repeated attempts to repatriate some of them to a North Vietnam that does not even acknowledge their existence.)

But then, why should foreigners care about American prisoners of war when Americans themselves don't seem to care?

Just as it is obvious that Hanoi intends to hold these men until the last measure of blackmail value is squeezed out of them, the conclusion becomes inescapable that Americans are perfectly willing to let them do so.

In no other war this country has ever been engaged in has the question of prisoners of war hinged upon capitulation to enemy demands amounting to virtual surrender. In no other war would public opinion have stood for it.

But today we are so guilt-ridden, so full of self-doubt, so war-weary, so disillusioned that we seem ready to write these men off as scapegoats for our national sin of intervening in North Vietnam's conquest of South Vietnam. Each day they remain in captivity is, in effect, one more payment on our bill of atonement.

In the meantime, wives are growing old without husbands, children are growing up without fathers.

The moralist (who applies morality only to the United States) may counter that the prisoners, most of them fliers, are responsible for the creation of uncounted numbers of widows and orphans in Vietnam, who have no hope at all of ever seeking their husbands or fathers again.

Very well. If American servicemen are to be held accountable for carrying out the military policies of their government, then let the soldiers of every country, including North Vietnam, be held similarly accountable.

But until that happens, let American prisoners of war be treated in accordance with international standards which even the Nazis abided by.

This would mean, at the very least, regular inspections of prison camps by neutral-nation observers. It would forbid the exploitation of prisoners of war for political purposes.

There is nothing we can do to force North Vietnam to release or exchange or ameliorate the living conditions of her American prisoners of war.

But we can speak out.

PROJECT HOPE BEGINS MEDICAL TEACHING PROGRAMS IN BRAZIL

Mr. TUNNEY. Mr. President, at sunrise on Ash Wednesday, the S.S. *Hope*—largest ship ever to enter the harbor of Natal—settled into the dock area at Potengi. The rigors of 3 days of Carnival did not deter some 10,000 Brazilians from crowding the pier at 5:00 a.m. They danced and shouted their welcome greetings to the American medical personnel, as the music of Carnival was played over a dockside loudspeaker. In the skies above, planes of the Brazilian Air Force performed an aerial salute. An official welcoming ceremony followed with speeches by Dr. Jose Cortez Pereira de Araujo, Governor of Rio Grande do Norte; Dean Genario Alves da Fonseca; The Honorable Kenneth Curtis, Governor of Maine; Stanley M. Cleveland, Charge d'Affaires, Embassy of the United States; and Dr. William B. Walsh, Project Hope's founder and President. Also present were other government and military officials, as well as Dr. Stephen Drachi, Director of the Peace Corps in Brazil and former Hope physician. Dr. Cortez said:

We have a custom of standing by the door of a house and knocking; but for you the doors and our hearts are already open. You are welcome here. Feel at home!

Four days of preparation followed, readying the equipment which had been lashed down at sea. Tours were held for the thousands of people of Brazil who wanted to view the hospital ship. The first rotation of volunteer American doctors arrived on Friday, February 17. They had 2 days of concentrated orientation. Despite the plan to open the hospital ship and officially begin work on Monday, February 21, many of the Hope physicians were already working in local Brazilian hospitals by Saturday afternoon. This included not only ward rounds, but actual major surgical procedures performed with their counterparts and medical students. The advance team, headed by Dr. Harold H. Royaltey of Cucamonga, Calif., and Brazilian professionals, had prepared patients for selection. The first group arrived on schedule on Monday morning, an overture to the steady stream throughout the rest of the week. Each patient selected was an ideal teaching case, and almost the entire spectrum of medical illness was covered. There were brain tumors, arthritic problems, premature births, children with a variety of kidney and chest diseases, and adults with everything from coronary disease, schistosomiasis, deafness, and parotid gland tumors.

The morale of the ship's staff was exceptionally high, as a result of both the reception afforded them by the Brazilians and the case selection. Medical students, nursing and allied health students all arrived on schedule. Seldom has there been a more auspicious beginning for a hope teaching program in a developing nation.

Dr. Walsh, Hope's founder and President, explained the two-fold meaning of Hope to the staff:

First, an exchange of medical education in all disciplines is paramount. This interchange includes knowledge, skills and techniques for all members of the health team. Although our efforts will be focused in one location, the scope of influence will be felt throughout the whole northeast section of Brazil. Hope believes in the team approach to medical care, believing that the patient benefits most by personal involvement of every member of that medical team.

Such a process means a coordination of both teaching and service. The two can rarely be separated. Obviously, service is an integral part of teaching. We know that the Brazilians will remember the benefit from Hope, and the impact of many people working hard every day for ten months as a strong, coordinated team will leave a legacy of medical knowledge that will endure and grow.

The other major benefit of Hope is derived from peoples of different nations learning to know one another. Understanding and trust between nations are built upon sympathetic comprehension of cultures between one individual and his counterpart.

Better health for everyone and understanding between people says it all. It will take hard work by the entire ship's medical staff, but I know you and Hope can do it.

Mr. President, I ask unanimous consent to have printed in the RECORD, a list of the Californians who are participating in the most commendable work being done by Project Hope.

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

PERMANENT STAFF ON S.S. HOPE—X VOYAGE

Name, permanent address, position, and Hope service

Geraldann M. Baesemann; 18944 Vickie Avenue, No. 92, Cerritos, California 90701; Staff Nurse; Brazil.

Joseph A. Bowen; 300 Tammy Way, Mobile Court, Napa Valley, Napa Valley, California 94558; Assistant Executive Housekeeper; Brazil.

Andrea Marie Fama, 1241 Golden Way, Los Altos, California 94022; Intensive Care Nurse; Brazil.

Mary Louise Guy, 249 Acalanes, Apt. 1, Sunnyvale, California 94086; Staff Nurse; Brazil.

Anna Marie Hanlon, 3140 Sixteenth Street, Sacramento, California 95818; Health Educator; Brazil, Equador.

Thomas H. Hayes, M.D., P.O. Box 6097, Santa Barbara, California 93111; Deputy Chief of Staff.

Gail P. Hurley, c/o Woodruf, 250 C Street, San Raphael, California 94901; Operating Room Nurse; Brazil.

Susan M. Kibbe, 1835 Vallejo, Apt. 305, San Francisco, California 94123; Secretary; Brazil.

Ruth E. Kletzman; 669 South Oak Knoll Avenue, Pasadena, California 91106; Pediatric Nurse; Brazil.

Alice B. Mild; 2383 Edgewater Drive, Napa, California 94558; Executive Hospital Housekeeper; Brazil, Jamaica.

Nancy Cody Miller; 101 Cervantes Boulevard, San Francisco, California; Dietitian; Brazil.

Harold H. Royaltey, M.D., M.P.H.; 7897 Valle Vista, Cucamonga, California; Chief of Staff; Brazil, Jamaica.

Miyeko Teranishi; 225 West Central Avenue, Madera, California 93637; Medical Technologist; Brazil.

Val Vebber; P.O. Box 222, Carmel, California 93921; Medical Record Technician; Brazil.

H. Linda Warren, c/o Markariaus, 1426 Echo Avenue, Fresno, California 93728; Dental Hygienist; Brazil.

Susan Elizabeth Willson; 891 Harbor View Place, San Diego, California 92106; Medical Technologist; Brazil.

First rotation—February 15—April 15

Roger Goodfriend, M.D.; Suite 10–B, 5150 Graves Avenue, San Jose, California 95129; Urologist; Brazil.

Jean Kohn, M.D.; 1230 Vancouver Avenue, Burlingame, California 94010; Public Health—Pediatrics; Brazil, Peru, Nicaragua, Ceylon, Ganado, Arizona.

Martin M. Kohn, M.D.; 1230 Vancouver Avenue, Burlingame, California 94010; Internist; Brazil, Peru, Nicaragua, Ceylon, Indonesia/S. Viet Nam, Ganado, Arizona.

Alfred L. Schmitz, M.D.; 3701 Stocker Street, Los Angeles, California 9008; Radiologist; Brazil.

Stephen G. Schonfield, D.D.S.; 8158 Beverly Boulevard; Los Angeles, California 90048; Dentist; Brazil.

Second rotation—April 15—June 15

Robert L. Mills, M.D.; 1300 South Eliseo Drive, Greenbrae, California 94904; Plastic Surgeon; Brazil.

Michael F. Saviano, M.D.; 384 Post Street, San Francisco, California 94108; Otolaryngologist; Brazil.

Frank E. Watkins, D.D.S.; 3920 Williams Road, San Jose, California; Dentist; Brazil.

Donald E. Walker, D.D.S.; 2522 Dana Street, Berkeley, California 94704; Oral Surgeon; Brazil.

Laurens P. White, M.D.; Suite 607, 350 Parnassus Avenue, San Francisco, California 94117; Internist, May 15–July 15; Brazil.

Newell A. Johnson, M.D.; Magan Medical Clinic, 155 West College, Covina, California 91722; Pediatrician; Brazil, Ecuador.

Third rotation—June 15–August 15

Paul Altrocchi, M.D.; Palo Alto Medical Clinic, 300 Homer Avenue, Palo Alto, California 94301; Neurologist; Brazil, Ceylon, Nicaragua.

Michael Bluhm, M.D.; 311 South First Street, San Jose, California 95113; Orthopedic Surgeon; Brazil, Ceylon.

James C. Campbell, D.D.S.; 1043 Village Lane, Chico, California 95926; Oral Surgeon; Brazil, Jamaica.

Edward Falces; 2300 California Street, San Francisco, California 94115; Plastic Surgeon; Brazil, Ceylon, Ganado, Arizona.

Frances Falces, 2300 California Street, San Francisco, California 94115; General Medicine and Public Health; Brazil, Ceylon, Ganado, Arizona.

Charles L. Johnston; 311 South First Street, San Jose, California 95113; Orthopedic Surgeon; Brazil.

Harold P. Tompkins, M.D.; 1336 Inverness Drive, Pasadena, California 91103; Radiologist; Brazil.

Fourth rotation—August 15–October 15

Richard L. Dakin, M.D.; 1300 South Eliseo Drive, Greenbrae, California 94904; Plastic Surgeon; Brazil.

Maxwell Ibsen, M.D.; 1548 Lincoln Avenue, San Jose, California 95125; Pediatrician; Brazil.

Russell W. Ludwick, M.D.; Chief Radiologist, Garden Park General Hospital, 9922 Gilbert Street, Anaheim, California 92080; Radiologist; Brazil.

Herbert J. Dodd, M.D.; 40 Dormody Court, Monterey, California 93940; Otolaryngologist; Brazil.

Fifth rotation—October 15–December 15

Harry J. Brown, General Hospital Ventura County, 3291 Loma Vista Road, Ventura, California 93003; Radiologist; Brazil.

Vernon R. Gee, M.D.; Redding Radiologic Associates, 2020 Court Street, Redding, California 96001; Radiologist; Brazil.

Miguel A. Llanos, M.D.; Suite 610 2010 Wilshire Boulevard, Los Angeles, California 9007; Urologist; Brazil.

Otto B. Munchow, M.D.; Apartment 1705, 1900 East Ocean Boulevard, Long Beach, California 90802; Anesthesiologist; Brazil. Columbia, Ceylon.

SENATOR JOHN SHERMAN COOPER OF KENTUCKY

Mr. COOK. Mr. President, it is a distinct honor for me to ask unanimous consent to have printed in the RECORD an article by John Ed Pearce, published in the Louisville Courier Journal and Times magazine of March 5 about one of the most well-loved and respected Kentuckians of all time, the senior Senator from Kentucky, JOHN SHERMAN COOPER.

Mr. Pearce traces the remarkable political career of the man from Somerset, Ky., who has given the people of his home State and the Nation more than 40 years of dedicated public service. I know that all Senators share the sentiments of one of my fellow Kentuckians who in the article described JOHN COOPER as a man "who has traveled the spectrum of social and political life and left only dignity, honor, and respect wherever he walked."

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

MR. COOPER SAYS FAREWELL

(By John Ed Pearce)

Let philosophers argue whether the end of a brilliant career is less painful than the end of a dismal one. There is hurt in either case. Nothing is done for the last time but is done with regret, and when on Jan. 21, 1972, John Sherman Cooper came home to Kentucky to announce that he would not seek re-election to the United States Senate, his voice was choked and there were tears in his eyes and on the cheeks of his wife beside him.

He spoke, at a Lexington meeting of the Kentucky Press Association, for less than three minutes, in the halting, half-mumbled manner that has become, over the past 25 years, a Cooper characteristic, and what he said was: thank you. This is what I set out to do, and now it is done. And it has been a privilege.

Then, before returning to Washington for the final months of his Senate career, John Sherman Cooper went back to Somerset, back to Pulaski County where he was born 70 years ago, and the welcome by the people who gave him his start was touching, moving. He spoke in the Courthouse where once he sat as county judge, and later was guest of honor at a noisy, hollering, old-time rally at the Cumberland Falls State Park Lodge for Republicans of the mountain counties of the 5th District, and sat, smiling, embarrassed, as judges, U.S. representatives and senators compared him with Lincoln. The meeting was long, and at 70 a man gets tired. But there were hands to shake and politics to talk before he could drive back to Somerset for a night's rest in his brother's home, just seven houses down North Main Street from the white frame home in which John Cooper was born on Aug. 23, 1901.

The drive from Somerset to Cumberland Falls takes only a few minutes, but the way there for John Cooper wound through a life that reads like a testimony to the value of virtue. It would have been a repudiation of the American ethic had John Cooper, first son and fourth of seven children of John Sherman and Gertrude Tartar Cooper, not risen from the mountain town to walk, as one orator at the rally declaimed, with kings.

His was a boyhood remindful of things gone by—the tight-knit family, the father a farmer-lawyer-judge of limited means but distinguished family ("he was good to all of us, but believed in discipline"), the mother ("she was a strong woman") directing a home of books and good cooking, and leading the family on Sunday to the Baptist Church.

John had his chores—keeping the lawn mowed, milking the cow, tending the garden. As he grew older, he delivered newspapers, worked in the local railroad yards, drove a coal truck, worked in his father's Harlan County coal mines. He spent his first four years of schooling in private schools, and had to fight his way out of the resulting reputation as a sissy when he transferred to public school. Tall, athletic, a hungry reader ("Our home was full of books. Everybody read. I read 'Vanity Fair' when I was 12") he started in football and basketball, was graduated second in his class at Somerset High School and earned a yearbook notation for his tendency to be tardy for everything, a trait aides say still clings.

He played football and basketball for Centre College's famed Praying Colonels for a year, transferred to Yale where he played three years of basketball (and was team captain for two years) and was tapped for Skull and Bones before graduating and entering Harvard Law School. He did not make Phi Beta Kappa, a source of regret in later years, or the Harvard Law Review, but his grades were always respectably high.

Then, suddenly, his father died, at the end of John's first year at Harvard, leaving little but land, and it had no immediate sale value. A family conference was held at which it was decided that John would return to Harvard, but at the end of his second year he came home, passed the Kentucky bar exams and hung out his shingle in Somerset, intent on paying off family debts and helping to support his brothers and sisters.

He ran for the state House of Representatives, and was elected for the two-year term without opposition ("largely because of my father, who had died only two years before, and who was greatly respected") and served creditably if without distinction.

"John didn't make much of an impression on the House floor," recalls veteran Frankfort newsman Clay Wade Bailey, "but he did on the dance floor. He was tall and handsome, and an elegant dresser. Very courtly, you know, gallant. He and Mac Swinford and Si Eversole were the social trio. He was always popular with the women."

Back home, he ran for and was elected county judge in 1930, serving two four-year terms through the hard days of the Depression. His father and grandfather had been county judges, and his great-grandfather had held a similar post before the Civil War. It was an emotional moment when he entered the courthouse to be sworn, and the eight years in the office left a deep impression on him, as he saw the suffering of a rural people caught in the collapse of a nation's economy. But with his hard work, his obvious compassion for people and the slow repayment of the debts for which he was neither legally nor morally responsible, John Cooper was building a foundation of grassroots regard from which he could reach for higher things.

His start for higher things was not impressive. He ran in the Republican primary for governor, and was defeated by King Swope of Lexington. The campaign, though, whetted his appetite for another try, but before he could make it World War II erupted and he enlisted in the Army, where he served from 1942 to 1945, rising from private to captain.

He returned home to become circuit judge, a post to which he had been elected in absentia, but served only a few months before filing in 1946 for the unexpired Senate term of A. B. "Happy" Chandler, who had resigned to become baseball commissioner. Running against the popular Democrat John Young Brown in a normally Democratic state, he was an obvious dark horse, and most newsmen watching his early efforts predicted that he would remain one.

"I remember," says Allan Trout, long-time Courier-Journal Frankford bureau chief and state political authority, "when John opened his campaign in a tent at Lancaster. My first impression was of his incredibly bad delivery. No polish, no flourish whatever. He searched for words, he mumbled, he seemed always to be preparing to apologize. But then I began noticing that he was having an almost hypnotic effect on the crowd. I couldn't figure it out.

"Then, in the courthouse in Richmond, I noticed these little old ladies, the kind who wear black velvet bands at their throats, sitting straight on the edge of their chairs as though they were at tea, and they were gazing at him with rapt faces. They weren't the type to turn out for a political rally, but they turned out for John Cooper. And then it dawned on me that his pained expression as he stumbled along, groping for words, seemed to say, 'I know I'm not much of a politician, but I'm sincere. If you can't vote for me, at least feel sorry for me.' He was everything a politician is not, and they loved

and trusted him for it. It's been his trademark. And his fortune."

He won. He had dreamed of the U.S. Senate since boyhood, and now he had made it. He was 45 and "felt that I had gotten started a little late. But I was on my way."

But his newly launched career would not prove an uninterrupted victory march. The unexpired term to which he had been elected was for only two years, and in 1948 he was defeated for re-election by Democratic Rep. Virgil Chapman. He might have sunk into political obscurity had not President Harry Truman, in 1949, named him U.S. delegate to the United Nations General Assembly. The prestigious post kept him in the limelight, and his prestige grew when, in 1950, Secretary of State Dean Acheson made him adviser to the original North Atlantic Treaty Organization (NATO) Council of Ministers, and the following year sent him on a diplomatic mission to the NATO nations. When Virgil Chapman died in 1952, Cooper returned to Kentucky and was elected to another two-year unexpired term, defeating Democrat Tom Underwood. But two years later, runing for a full term, he lost a grueling race to the redoubtable Alben Barkley.

Again, it seemed his career was finished, and again he was rescued when President Dwight D. Eisenhower appointed him ambassador to India and Nepal in January 1955. But when on April 30, 1956, Barkley dropped dead while addressing the students of Washington and Lee University, Cooper resigned his post, returned to Kentucky, filed for the unexpired term and won the election, defeating former governor Lawrence Wetherby. He was back in the Senate, and he would stay there for the next 16 years.

And for John Cooper, the past would indeed prove to be a prologue. It was as though his whole life had been spent preparing for the position. And his record throughout his 19 years in the Senate (second in duration for Kentucky only to that of Alben Barkley) showed the unmistakable imprint of his years in the Pulaski County Courthouse. It was his Depression-born compassion for people caught in the clutch of circumstance that led him, during the years from 1948 to 1972, to become the leader of the liberal wing of the Republican Party, a force in world politics as a Senate power and the confidant of presidents, and the Senate's "voice of conscience," as one newspaper described him, in the search for world peace.

Cooper's Kentucky constituency was not always happy with his consistent support for foreign aid, arms control, civil rights, welfare legislation and federal aid to education. Conservative Republicans often grumped that "John Cooper is getting too left-wing for my taste." But they weren't about to dump him; his voting record, as well as his personal appeal, won for him a bipartisan base whose values could not be ignored. And he mollified many of his rural detractors by championing bills guaranteeing tobacco farmers parity-price support, and efforts to develop Kentucky rivers.

"I had seen how hard it was for the small farmer to make ends meet, and I am convinced that he wasn't going to be able to compete in an uncontrolled, competitive tobacco market. If we could limit tobacco production to actual demand, and keep prices high, everyone could survive. Otherwise, the little boys would be squeezed out.

"It was the same with rivers. When I went to the Senate not one Kentucky river, with the exception of Kentucky Lake on the Tennessee, and a few floodwalls, had any development. Farmers, small-town residents, not just in East Kentucky but there particularly, were being ruined."

It was the same with welfare legislation and such volatile issues as Medicare.

"I know there are abuses in the welfare program. I know it hasn't worked exactly as we hoped it would," he says. "But we had to try, and I'm glad we did. The same with medical care. When the Medicare bill was up, I got thousands of letters from back home, most of them against me. The doctors and hospital people were against it. But I noticed that the old country doctors and the county officials—people who had been out in the country and seen the plight of the people who live in the hollows and down the dirt roads—they were for it. And I remembered my experiences as county judge in Pulaski County, when I'd go out in the county and see these people—desperate, hungry, sick and nowhere to turn, and no one with any money to help them. You just can't let people go hungry. You can't just let them lie there sick and die. Not in this country. Not with all we've got."

His small-town, rural background also influenced his stands on such matters as the TVA and the Rural Electrification Administration. Both aimed at bringing not just electricity, but a better life in general to the people "who lived in the hollows and down the dirt roads," and Cooper fought for their appropriations, often against the majority of his own party, and in one instance against his party's President. During the Eisenhower years (and to some extent during the recent Justice Department regime of John Mitchell) he found himself consistently critical of administration and congressional efforts to legalize wire-tapping, electronic bugging and security searches without warrants.

"After the Supreme Court decision in the Mallory case, restricting the right of police to detain suspects without informing them of the charge against them, there were several efforts in the Congress to limit the effects of that decision, to limit the constitutional right against self-incrimination, and later efforts to permit search and seizure on suspicion, and I opposed them as hard as I could. From my father, and from law school, I got a respect for the Constitution and the Bill of Rights. When I was county judge I had lots of moonshine cases, moonshine stills, and I found that though these people had obviously violated the law, the evidence against them had been gathered by illegal search and seizure, without warrant, and I turned them loose, and was criticized for it."

In a sense, Cooper's entire career has involved a basic effort to compromise his basic belief in the stern Republican virtues of his youth with the policies he felt impelled to follow as a result of his early experiences. As a result, his convictions have led him into frequent conflict with presidents of his own party, something of an embarrassment in view of his close relations with, particularly, John F. Kennedy. The years of his greatest frustration, he admits, came during the Eisenhower years when he found himself in opposition to the administration's Dixon-Yates scheme to cut the heart out of the TVA, and its efforts to expand police authority at the expense of what Cooper regarded as sacrosanct individual rights. He also felt that the party of Lincoln was lagging in the fight for minority rights.

His friendship with John Kennedy was, of course, a natural. "We just seemed to get along," he says. Not all of it was idealogical. There was personal warmth between them, plus the fact that their wives liked each other, one more instance showing the soundness of his marriage, on March 17, 1955, to Lorraine Rowan Shevlin, the beautiful, wealthy Washington socialite. The marriage might have not occurred earlier had it not been for the imposing home at Georgetown's 29th and N streets where they now live. It was her home, and Cooper did not want to move in a house he did not own ("hill pride, I guess"), and she did not want to give it up.

Strangely, Alben Barkley solved their dilemma by beating Cooper in 1954, after which President Eisenhower appointed Cooper ambassador to India. "So we didn't have to move into her house or my house, but into the embassy," Cooper recalls, "and by the time we came home that sort of thing had solved itself."

(When Cooper appeared before the Senate Foreign Relations Committee for confirmation, Barkley, with whom he had always enjoyed pleasant personal relations, endorsed him warmly. "I'm glad to say that I did John a good turn," he said, "though he may not appreciate it. I beat him, and now he is going to have a very interesting position. And second, he is going to marry that nice girl I've been trying to get him to marry for the past two years.")

It was an ideal marriage. Both had been married before (She to Robert McAdoo of California and to Thomas Shevlin, wealthy New Yorker, he in 1944 to Army nurse Evelyn Pfaff, from whom he was divorced in 1948). They complemented each other: She had wealth and social grace; he had international stature and political prominence. Except for the brief Kennedy years, an invitation to dinner with the John Coopers has been more prized than a bid from the White House.

(A loyal and hard-working campaigner for her husband, Lorraine Cooper charmed the people of Somerset when she and John returned home—or nearly all of them. One courthouse hanger-on, seeing her walking past Somerset's Fountain Square [which she and Cooper donated to the town] under a white parasol, exclaimed, "Godamighty! She pranced down there under that white umbrella and it wasn't even rainin'.")

Cooper's last term in the Senate has been clouded, characteristically, by his conflicts with the White House over the ABM and the Vietnam war, both of which he has long opposed. Again, his stand on these issues, like his tireless work for the Strategic Arms Limitation Talks (SALT), can be traced back to his Army service in World War II. "I became convinced it was no longer a solution to anything. Ever since the war I have abhorred violence. In any form, from any quarter. It can't be excused, in Vietnam or on campuses or in the ghettoes. It's not the way."

His criticism of defense spending, his fight for arms control and his joint efforts with Democratic Sen. Frank Church to prevent the use of U.S. troops in Cambodia, Laos and Thailand have led to charges from conservative quarters that Cooper is soft on security and naive about the threat of communism, as did his earlier defense of individual rights against those of society and security. The charges both amuse and irritate him.

"I knew about the Communists at first-hand long before these people," he says. "I was legal adviser to the commanding officer of Allied Zone Three in Germany after the war, when we were trying to repatriate displaced persons brought from Russia by the Germans as slave labor. And I found out how ruthless and cruel the Russians could be, when they demanded that their nationals be sent home, but be forced to leave behind the foreign wives they had married and their children." Cooper, though only a captain, managed to block this, save thousands of families from being separated and was cited for his work. As U.N. delegate, he introduced the only two resolutions of censure ever levied against the U.S.S.R., and after a diplomatic mission to Moscow for President Kennedy warned the President that dealing with the Russians would require toughness. He was also a strong, early supporter of NATO, and backed foreign aid as a means of curbing the expansion of communism, though he later critized the waste and lack of coordination in the whole foreign-aid program.

Perhaps the most gratifying development of his final term was the iniation of the SALT talks, which he has attended three times at the request of the President, and to which he plans to return this spring. "I

believe this year is going to produce something really substantial in the way of an arms agreement between the U.S. and Russia," he says. He sees, on the other hand, a continuing danger in conflicts between small nations that could embroil the giant powers, and he worries about the desire in some Washington quarters for a continued U.S. presence in Southeast Asia after the war in Vietnam is wound down.

"There is no need for us to remain there, not in a military sense," he says. "In fact, we might only prolong a conflict that might otherwise be settled. I believe that, increasingly, the people of this country want to see us involved, militarily, only where our security is actually at stake."

Though he apparently decided some months ago to step down, Cooper has continued to do his "homework" as any successful politician must, attending homestate receptions, seeing hundreds of back-home visitors to the capital, speaking for party candidates and handling a steady flood of mail. For a man approaching 70, this has not been easy. His health has long been the subject of political rumor, and his seeming lassitude feeds speculation, which seems always to surface at election time, that he is not well.

Yet the fact seems to be that, except for a blood clot in his leg, Cooper is in good physical shape. He carriers his 177 pounds easily and gracefully on his erect, 6-foot-1 frame, only 10 pounds heavier than his college weight. He drinks sparingly, an occasional Scotch and water, doesn't care for wines, tends to "eat what is put before him," and tries to get eight hours of sleep a night. His one vice is cigarettes, which he smokes rapidly and nervously, and every now and then a cigar after dinner. His gray hair is still fairly heavy, and though his hearing is getting bad, he does not consider it bad enough to warrant a hearing aid.

"He's still the best-looking man in Kentucky," warbled a portly matron at the Cumberland Falls rally. "I just love him."

With so much going for him, his decision not to run again came as a surprise to many people. Few men who can have a Senate seat for the asking turn it down, and John Cooper, in the opinion of seasoned political observers, has become unbeatable in Kentucky.

"It doesn't make any difference what John says," declares Allan Trout. "People believe him. He's unique in our history, more so than Alben Barkley. Barkley was fierce partisan, Mr. Democrat. John is above party. You couldn't beat him. To tell the truth, the Democrats have never really gone after him. They never had a good issue, but that shouldn't stop them. In Kentucky, if you don't have an issue, you manufacture one and then blow it up. But they were afraid to attack John, afraid it would backfire. Attacking him would be almost poor taste."

As Clay Wade Bailey said: "John has perfected his Jesus image."

But in the end it was neither age nor the prospect of another campaign that persuaded John Cooper to retire.

"I felt," he says, "that it was a new day, a new era; this is almost a new world. The things we fought for have changed nature, direction, emphasis. Civil rights has shifted from constitutionality to practicality. Equal education is involved in busing. TVA, flood-control dams, soil conservation—all the things once sought by conservationists—are now suspect. There are the problems of the cities, next to arms control probably the toughest we face, and I know, really, very little about urban problems. There are whole new sets of problems, and they are not as distinct and clear as they used to seem. I decided that maybe a younger man, not tied to the old problems and their solutions, could do as well or better."

His announcement poses a stickler for Kentucky Republicans, who now face the problem they faced 25 years ago, before Cooper started the trend toward Kennedy Republicans in the Senate.

"He's earned his rest," said Sen. Marlow W. Cook. "I'm glad. No one wants to see him kill himself."

"He has achieved greatness," write his old friend, Judge Homer Neikirk of Somerset, "through devotion to the betterment of others. But we can't lean on him forever."

State Senate Minority Leader Harold DeMarcus echoed this sentiment. "John Sherman Cooper is the only man I have known who has traveled the spectrum of social and political life and left only dignity, honor and respect wherever he walked."

Cooper is not unaware of this esteem, or unaffected by it. He is not without his vanity, about his looks, about his record.

"I have worked hard," he says. "I have done the best that I could. You always hope that, along the way, you may do something of value, and in a few instances I think I have tried. My only limitations were my own abilities, which are not the greatest. But not the worst, either."

He will not leave without some regret.

"Actually, I wish that my term could have expired two years from now. There are so many things that I'm interested in, that I would like to work on. But I've always given the job here my full energies and capacities, physical and mental. I'm not sure I could do it for another six years. There comes a time to step down. The decision was traumatic for a while, but I've known all along that I would quit."

What are his plans now?

"Well, I'll be looking for a job. I've worked all my life; I can't just sit down now. And I'll need a job. Aside from a share of some land my father left us, a little plot I bought while working for a Washington law firm between terms, and a part interest in my brother's stone quarry, I have no money. I want a job I can go to every day. And I think I have something to offer.

"I'd like to travel some, but for a purpose, not just to travel. And I think I'd like to go back to school for a while, go to some outstanding university and hear lectures on history, literature, philosophy. I've always regretted that I didn't study harder, read more in college, and since then I haven't had the time to do the reading I'd like. Oh, I've read Kant, Spinoza—but sporadically, not systematically. I hope now to have time, read.

"But mainly, looking toward leaving, I'm grateful. And not dissatisfied. Looking back, I find that there's not much to be sad about. I've been fortunate through all my life."

Out of gratitude for the good fortune, and in salute to the country he has served, he concluded his announcement of retirement with words of Lincoln:

"Thanks to all. To the great Republic; for the principles it lives by and keeps alive; for man's vast future. Thanks to all!"

ONE HUNDREDTH BIRTHDAY OF YELLOWSTONE NATIONAL PARK

Mr. HANSEN. Mr. President, this year in Wyoming we are celebrating the 100th birthday of Yellowstone National Park, and this year across the country, we are marking the centennial of the beginning of the national park system, which was started with the designation of Yellowstone as our first national park.

The centennial has provided occasion for Wyoming people to dust off many collections of pictures, stories, historical writings and other memorabilia about the early days of Yellowstone. A great treasure of fascinating and wonderful history about the park will be available, and many new publications are being prepared which compare conditions today at Yellowstone with the way they were so many years ago when Lewis and Clark first wrote about this most magnificent of nature's creations.

Among the most prized photographs of the wonders of Yellowstone Park are those taken in the early 1900's by Joseph E. Stimson, who exhibited his work at the 1903 St. Louis Exposition. Later to become the official photographer for the U.S. Bureau of Reclamation, Mr. Stimson's pictures capture not only the unparalleled beauty of Yellowstone's natural phenomenon, but also a way of life that is as much a part of Wyoming and the West as is Yellowstone. His work tells us how things were in the days before trails, campgrounds, and other man-trappings became a part of Yellowstone.

Dr. T. A. Larson, a published historian and American studies professor at the University of Wyoming, wrote in the March 19 Sunday Supplement of the "Casper Star" about Mr. Stimson's photographs, each of which was inscribed with the comment: "It is given to few to create: to enjoy should be the inalienable birthright of all."

Mr. President, I ask unanimous consent that Dr. Larson's article entitled "Some Work, Mostly Play," be printed in the RECORD.

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

SOME WORK, MOSTLY PLAY

(By T. A. Larson)

Cheyenne's pioneer photographer, Joseph E. Stimson, did not believe in all work and no play. He took time off whenever possible to go fishing with his friend Lem Ellis. Both know when, where, and how to cast the fly.

Stimson and Ellis, expert candy makers, had shops side by side on 17th Street in Cheyenne. When they visited the Big Laramie or North Platte in search of trout, they were, as Bill Nye once put it, "in shape to enjoy the wild grandeur of the eternal hills without fear from the poisonous reptile of the rugged gulches and alkali bottoms of this picturesque western country."

Of course, Stimson took along his reliable 6X8 view camera just in case he saw something worth an exposure.

PROLIFIC PHOTOGRAPHER

His pictures are prints from a few of the more than 6,000 glass-plate negatives of the Stimson Collection which is preserved in the Wyoming State Archives and Historical Department, Cheyenne.

Joseph Elam Stimson (1870-1952) was born in Virginia, lived for several years in South Carolina, and then moved to southeastern Nebraska, where his father, a medical doctor, died prematurely of typhoid fever.

Joseph, who was then 16, was apprenticed to a cousin who was a photographer in Wisconsin. After three years of apprenticeship, young Stimson was ready to set up shop for himself, and did so in Cheyenne in 1889. He specialized in portrait work for a few years, prospering sufficiently to make marriage possible in 1894.

In that same year Elwood Mead, state engineer, triggered his conversion from portraiture to scenic photography. Mead brought in to be developed some plates which had been exposed in the Jackson Hole country. Captivated by the spectacular views, Stimson got permission to accompany Mead on his next trip north, which was to the Big Horns in 1895.

JACKSON HOLE RECORDED

Four years later, Game Warden Albert Nelson invited Stimson to be his guest in Jackson Hole, an area that he had been dreaming about. He returned with many exposures from which he made prints for sale.

Impressed by Stimson's pictures, a Union Pacific public relations agent commissioned him to photograph scenery along the railroad between Omaha and San Francisco. The company provided Stimson with a private car and a Fairbanks-Morse inspection car. He continued as U.P. photographer until World War I.

COMMISSIONED BY STATE

Since his work for the Union Pacific was only part-time, Stimson obtained a commission from the state of Wyoming to prepare an exhibit for the St. Louis Exposition of 1903. His award-winning exhibit consisted of a picture from each of the state's thirteen counties and one from Yellowstone Park, all of them being enlarged to 30 x 40 inches and colored in water colors. He won another award for the same exhibit at the Lewis and Clark Exposition in Portland in 1905.

In the summer of 1925 he packed into the Wind River Mountains and Jackson Hole. By this time he was called "artist Stimson" and "America's leading photochromatist." He used both oil and water color in illuminating his enlargements of Wyoming scenes.

1925 PRODUCTION

Among the popular prints which resulted from his 1925 pack trip are "Solitude" (Gannett Peak), "Aspen Tracery" (Mount Moran), and "Rising Mists" (Grand Teton across Jackson Lake). His pictures were offered for sale in many places, especially in towns along the highways leading to Jackson Hole and Yellowstone Park.

In 1929 Elwood Mead, who was by this time U.S. Commissioner of Reclamation, named Stimson official photographer for all federal reclamation projects. This gave the artist opportunity to travel all over the West.

Stimson's daughter, Mrs. H. Paul Hallowell of Cheyenne, recalls that her father "took such beautiful trips" and "was always the story-teller—always the entertainer in our family." Another daughter, Mrs. Henry Love, lives in Sheridan.

Mrs. Hallowell remembers with pride the quotation which her father regularly printed on the protective tissues which he used to cover his pictures.

"It is given to few to create: to enjoy should be the inalienable birthright of all."

SOVIET OPPRESSION OF THE UKRAINIANS

Mr. TUNNEY. Mr. President, the Ukraine is the largest area with an historical identity in Eastern Europe, and the Ukrainians are by far the most numerous of all national groups in that region, numbering close to 50 million. These hardworking people have always tilled their bountiful land diligently, not only for their own well-being but also for the good of their neighbors, and in recent years for the Soviet Union. The very fact that the Ukraine is rich in natural resources seems to have brought misery and misfortune to its people. The wealth of the land has aroused the envy and jealousy of its powerful neighbors, thus resulting in conquest by outside powers.

For more than 300 years the Ukraine has been submerged in the huge Russian state, and during all that time both czars and Communists have endeavored to suppress and eradicate what we in the West regard as the inalienable rights of peoples everywhere: desire for freedom, love for their homeland, yearning for political independence, and readiness to sacrifice their all for the attainment of their national goals. Only once in the course of their subjection to alien rule have they had the chance of attaining their freedom and independence; that was in 1918. When the czar's autocracy in Russia was overthrown in 1917, and Austria no longer ruled over the western Ukraine, Ukrainian leaders proclaimed an independent state. That was done on January 22, 1918.

That day is a landmark in the modern history of the Ukraine, and remains a significant date in the struggle of the Ukrainian people for their freedom. Unfortunately, however, they were able to maintain their hard-won freedom only for a short time. Early in 1920 the new Communist rulers of Russia attacked the country and incorporated it into the Soviet Union. The independent Ukrainian state thus became a mere memory.

Since that time the Ukraine has been a province of the Soviet Union. For more than 50 years the oppressed Ukrainians have been living an abridged existence in their homeland, surrounded by Soviet secret agents and separated from the free world by the Iron Curtain. They endured the horrors of the Stalinist era, and also the hardships of the last war; and today they are held down by the Kremlin's agents.

In recent years, especially since 1965, the Kremlin has stepped up the persecution of Ukrainian intellectual leaders. Many teachers, scientists, writers, actors, musicians, and literary critics have been warned, and then placed under arrest, and some have even been confined to psychiatric institutions for the purpose of discrediting and silencing them.

These acts of repression continue today. Most recently—January 1972—the Ukrainian KGB carried out a massive wave of arrests and house searches involving prominent Ukrainian intellectuals and civil rights advocates. On January 17, 1972, seven people were arrested in Lvov; among them was Vyacheslav Chornovil, the author of "The Chornovil Papers." On the following day the action spread to Kiev, where more arrests were made, including that of another prominent literary critic, Ivan Svitlichny. Still more action ensured on January 14 when the flat of civil rights leader Pyotr Yakir was raided.

Thus today untold numbers of people in the Ukraine and elsewhere in the Soviet Union are reportedly being harrassed and arrested only because they have the courage to stand up for freedom and human rights and are demanding justice in their homelands.

Under such trying circumstances Ukrainians are not allowed to enjoy a desirable measure of freedom. Still they are hoping that some day they will attain this freedom and live as free people in their historic homeland. We all hope that that day is not far off.

THE STOCK EXCHANGE AND THE PUBLIC

Mr. WILLIAMS. Mr. President, there is a growing recognition, within the securities industry as well as elsewhere, that an orderly transition from fixed to competitive commission rates on stock exchange transactions is both desirable and inevitable if the securities industry is to have a healthy and productive future. The leaders of the industry have come out strongly for competitive rates, and the Securities and Exchange Commission is moving steadily, if somewhat uncertainly, toward a fully competitive system.

There are, however, people in the industry who, having lived so long under the restrictions and protections of a fixed rate system, are fearful of the effects of competition. I recently received a letter from a partner in a brokage firm, setting forth his concerns about the bill which I have introduced to eliminate fixed commissions on orders in excess of $100,000 and to permit "unbundling" of charges on smaller transactions. The author of the letter sent a copy to the Wall Street Journal, our leading financial newspaper. In its lead editorial last Monday, entitled "The Stock Exchange and the Public," the Journal answered the points made in the letter, reaffirming its belief that competition will be a far better guarantor of adequate service to public investors than the present restrictive system.

Because that editorial expresses so well the considerations that led me to support the reestablishment of free competition in the securities industry, and because it may serve to allay the concerns of others about the effects of competition, I ask unanimous consent that it be printed in the RECORD.

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

THE STOCK EXCHANGE AND THE PUBLIC

Under occasional prodding from the federal government, the New York Stock Exchange vowed to get rid of its private-club principles and procedures, and it has been making some progress in that direction. Unfortunately, however, some of the clubby ideas linger on.

Some of the smaller member firms, for instance, are distressed by the Securities and Exchange Commission's gradual movement toward competitive commission rates. Brokers and customers now must negotiate rates on transactions involving more than $500,000 and the figure is supposed to drop to $300,000 next month; last week, SEC Commissioner James J. Needham said that "$100,000 is the target on the horizon."

Not surprisingly, competition has lowered brokers' charges. Though it directly affects only large financial institutions so far, these institutions manage a great deal of the public's money.

In the view of some of the smaller firms, though, competition actually will not serve the public's interest. The reasoning isn't easy to follow.

One objector is Frederick M. Stern, general partner of Gruntal & Co., a relatively small but well regarded member firm. In a letter to Senator Harrison A. Williams Jr., chairman of the Senate Banking subcommittee that endorsed negotiated rates on trades above $100,000, Mr. Stern sought to explain his opposition.

"The recommendation of your committee to lower the negotiated commission rate to $100,000," he wrote, "indicates a total disregard to the problems of the small brokerage firm. . . . What is totally ludicrous about the proposed $100,000 rate is that it will result

in the demise of the small research firm, thus creating a massive monopoly in the industry; probably no more than 50 firms may exist in several years."

How would this affect the public? Well, Mr. Stern and others argue that the surviving firms, if such a massive dropout of brokers did occur, would lose interest in serving the general public.

Smaller investors, they contend, would be forced into mutual funds and other areas of investment.

There are several things to be said about this argument. In the first place, fixed commission rates and extra charges have already pushed many smaller investors into mutual funds or out of the market entirely.

Fixed rates were supposed to protect all member firms, or as many as possible, but they obviously haven't made it possible for all firms to do an effective job of serving the public. In other industries it has been known that eliminating competition is not the best way to increase industry efficiency.

In the second place, competition is not really a numbers game. With negotiated rates the industry probably could expect the sternest sort of competition even if only 50 of the present 600 or so firms survived.

The idea of drawing small investors into the market, moreover, is one that the industry itself is oversold. A good many Americans, after all, would be much better off putting any extra cash into banks or savings and loan associations instead of trying to make a fast buck in the market.

Despite Mr. Stern's worries, we're convinced that even under total competition, securities firms will continue to offer their services to anyone they feel they can serve profitably. If the resulting rates are too high for some small investors, they can hunt other forms of investment.

The industry plainly is in a period of transition and change can often be painful. The record of the past few years, however, has made it evident that change is essential, and the industry's more thoughtful leaders know that the wisest course is to help plan the changes and make them work.

Eventually everyone must recognize that the New York Stock Exchange is no longer a private club dedicated to its members' preservation but a group of businessmen selling their services to the public.

SUPREME COURT JUSTICES' WIDOWS

Mr. BURDICK. Mr. President, the Committee on the Judiciary is currently considering S. 2854 relating to the annuities payable to widows of Justices of the Supreme Court. The bill which was sponsored by Senator HRUSKA, Senator HARTKE, and myself, would, for the first time, bring Supreme Court Justices into the Judicial Survivors Annuity Plan which Congress enacted in 1956. Justices would contribute to the annuities payable to their survivors as do most Federal employees. This, then, would permit the phasing out of the noncontributory annuity now payable to the widows of Supreme Court Justices. The bill would also increase from $5,000 to $10,000 the statutory annuity now being paid to seven widows of deceased justices.

Some of the reasons why the legislation should be favorably considered have been mentioned in editorial comment in some of the leading newspapers of the country. I ask unanimous consent that editorials published in the New Orleans Times-Picayune of February 14, 1972, and the Washington Post of March 11, 1972, be printed in the RECORD.

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

[From the New Orleans (La.) Times-Picayune, Feb. 14, 1972]

WIDOW'S PENSIONS LAG BEHIND

It sounds so low, the figure seems a mistake, but it's correct. Widows of United States Supreme Court justices get a $5,000 pension from the government.

Columnist Leonard Lyons pointed out the figure recently and told of the tragic case of Mrs. Felix Frankfurter. She is institutionalized and her $5,000 doesn't even permit a radio, according to Mr. Lyons.

In these days of rising costs and enlightened personnel management, somehow the matter of such pensions has remained neglected in the shadows.

Compare Louisiana's provision for widows of its Supreme Court jurists. Law says they are entitled to one-third of their spouse's salary at the time of death or retirement, or one-half of their spouses' retirement salary, whichever is the greater.

Salaries for the state's high court were fixed at $37,500 in 1970, so the minimum pension for a widow—disregarding the retirement pay aspect—is $12,500 annually.

Surely, Congress can do better by widows of U.S. Supreme Court justices than $5,000 a year. It is no less than a matter of conscience, as we see it.

[From the Washington Post, Mar. 11, 1972]

PENSIONS FOR SUPREME COURT WIDOWS

In 1937, during the depth of the depression, the Congress of the United States woke up to the fact that our laws provided no pension for widows of Presidents and passed a law, popularly known as the Grace Coolidge Act, providing for a then adequate pension of $5,000 per year. Seventeen years later, Congress discovered widows of Supreme Court Justices and provided a pension for them pegged at the 1937 rate. Although pensions for Presidents' widows have been raised twice since then—to $20,000 per year—pensions for widows of members of the Supreme Court remain at the same depression level.

There are now living seven widows of Supreme Court Justices—among them, some poignant and compelling human stories. The wives of retired and currently active justices, under present law, can look forward to the meager pensions if their husbands die before they do.

Much more equitable widows' pension laws have been passed by the Congress for the lower federal judiciary and by most state legislatures for their highest courts. By and large, these acts call for pensions based upon contributions made by the judges during their working lives and are paid out on formulas based upon the judge's salary and his length of service. Last November, Senator Burdick introduced a bill on behalf of himself and Senators Hartke and Hruska which would raise the widows of Supreme Court justices to a rough parity with those of judges in the other judicial systems.

Under the Burdick bill, now pending in the Senate Judiciary Committee, the pensions for the seven widows would be raised to $10,000. Active and retired justices would be given the option to make a deposit equivalent to contributions they would have made during their tenure on the bench and to join a new contributory system or have their widows face the prospect of receiving the old $5,000 pension. All future justices would be required to join the new contributory plan similar to those now existing or the lower Federal judiciary and or the supreme courts of most states.

The existing pension plan is a minor, but very real shame on the nation. In an era where frivolity, waste and greed abound, it would be refreshing to see the Congress act with equity and generosity. Other remedial bills have been offered in the past, but they have died. The Burdick bill should not. Pensions at the 1937 level are not good enough for the widows of some of the nation's most distinguished public men.

EXPERTS DOUBT NUCLEAR SAFETY MARGINS

Mr. GRAVEL. Mr. President, yesterday in the RECORD I referred to the important information about nuclear power safety, or nonsafety, which is gradually being elicited at the AEC's Emergency Core Cooling hearing in Bethesda.

On February 23, I placed in the RECORD, on pages 5137–5141, an extensive summary of several documents which are central to the hearing; the summary came from Nucleonics Week, February 17.

Today, Mr. President, I ask consent to place the full text of one of those documents, made public and designated No. 715 at the hearing, into the RECORD at the end of my remarks. It is a memo to the members of the AEC's Task Force on Emergency Core Cooling from Morris Bacon, the AEC's own Chief of the Systems Performance Branch in the Division of Reactor Standards, and his deputy, Robert J. Colmar. The date is June 1, 1971.

COMPARING EXPERTS AND COMMISSIONERS

They speak in detail about the "serious questions regarding the basis for reasonable assurance" that crucial parts of "these complicated systems" will function adequately when needed. What they say is very different from the sweet assurances we are given about reactor safety from the AEC Commissioners.

Excerpts from this memo, and from several subsequent ones by Colmar and others, dated as recently as January 13, 1972, are provided in the Nucleonics Week report.

However, it is common to feel ill at ease with excerpts selected by someone else until one inspects the complete source and context oneself.

That is why it is particularly distressing that so few of the documents surfacing in Bethesda are available to Members of Congress, to the press, and to others, as they would be if the inquiry were before Congress instead of before the AEC.

SHOULD WE LEGISLATE AGAIN WITHOUT SAFETY HEARINGS?

It is deplorable that nuclear safety hearings are not held by some committee of Congress, and on a regular basis, and especially before Congress is asked to accelerate the operation of nuclear powerplants under brandnew legislation like H.R. 13731 or 13732.

Although I cannot remedy such a gross deficiency by placing just occasional documents in the RECORD, I do this in the hope that, if enough Members of Congress read them thoughtfully, they will recognize the urgency of learning more. Perhaps they will even understand why a nuclear power moratorium, as proposed in S. 3223, is a very reasonable and overdue measure.

The technical nature of some documents I place in the RECORD should not intimidate anyone. Most of their meaning is clear independent of technical terms.

Nevertheless, it is better to know than not to know that ECCS means a crucial powerplant safety system called the emergency core cooling system; LOCA means a loss of coolant accident; BWR means a boiling water reactor; PWR means a pressurized water reactor; and a "code" is a computer program.

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

COMMENTS AND RECOMMENDATIONS TO THE REG ECCS TASK FORCE

The current REG task force investigation into the adequacy of the ECCS has brought forward, in an unparalleled way, considerable insights into the methods of representing and assessing the performance of these systems by the reactor vendors and REG. These insights have served to clarify and underscore the complex detailed nature of the present analytical procedures and model codes.

By the same token they have also revealed the considerable complications and reservations involved in properly formulating a clearly acceptable basis for Regulatory use in judging ECCS performance for licensing. The multiplicity of computer coding techniques, of various reactor system designs, of assumptions regarding the fundamental physical events, the general interpretation of the limited available experimental information, and the extraordinary results from the hydraulic codes, have all served to raise serious questions regarding the basis for reasonable assurance concerning the operation of these complicated systems, as well as regarding the uniformity of application of the regulatory process.

The REG task force has undertaken to resolve the current regulatory difficulties, centered in the application of a variety of computer codes to the LOCA, by attempting to formulate a "prescription" to be applied to each reactor vendor's codes and to be used as a basis for licensing reactors on a plant-by-plant basis.

This approach is predicated on the notion that the codes in their present state of development are definitive in term of describing the course of the accident to a substantive degree, that system distinctions can be made meaningfully, and that the application of the prescription can be identified in its final results.

We take exception to this current approach. We have consistently pointed out that this approach is too limited for the task at hand. We are concerned with this approach because we believe that such a limited formulation will have unforeseen pitfalls inasmuch as it cannot be tested sufficiently in advance. That this approach will not be technically defensible in the final analysis as a basis for selectively de-rating multi-million dollar power plants on a plant-by-plant basis should code-generated numbers indicate such a course, and we are further concerned because the task force is not adequately emphasizing the need to identify the current urgency of new system development and the need for experimentation to justify the adequacy of present designs, in a timely way. We believe that the consummate message in the accumulated code outputs is that the system performance cannot be defined with sufficient assurance to provide a clear basis for licensing.

We would therefore propose that the task force relegate the code work to generic parametric studies and the development of insights into system performance and at the same time clearly delineate a separate, consistent and unambiguous basis for the licensing process. The establishment of this basis should be the first order of concern of the task force; a possible basis has already been suggested in terms of limiting peak kw/ft.

The formulation of such a limit by the task force need not be restricted solely to considerations of ECCS but could be extended to include broader considerations that might evolve from a concerted task force effort in this direction; i.e., based on a moratorium to establish sufficient reactor operating experience.

This memo is not intended to serve the purpose of presenting specific detailed recommendations but rather is intended to indicate the nature of our concern and to suggest the nature of the forum to which the task force should direct itself. These points will be further amplified below.

BASIS FOR CONCERN

The basis for our concern about the present course of action being pursued by the task force in adopting a "prescription-plus-code" approach for the near-term licensing process, lies in the indeterminacy of the adequacy of the present code formulations. This indeterminacy has been amply demonstrated to the task force members who have witnessed the continuing evolution and substantial changes of the code models during the very review process itself being conducted by the REG ECCS task force (i.e., plugging, new head pressure drop, modelling of the break, etc.).

We have no assurance that this process is anywhere near complete and that substantial future developments are not forthcoming, nor do we believe that model development should occupy the efforts of the task force. Under the circumstance of continuing model transition, it is not clear that the systems and the analytical tools are or will be adequately understood in the near future.

These views are supported substantively by the critique of the reactor vendor codes by A. Nahavandi (originator of SATAN) as expressed recently to the REG staff as well as by G. Lawson of Oak Ridge National Lab who has indicated, as an experimentalist, that a clear demonstration of coolability by wide margins is necessary to satisfy his uncertainties regarding the ECCS capability; that is, cooling by narrow margins would have to be regarded by him as an essentially uncoolable situation. Similar reservations are shared by W. Carbiener of Battelle Memorial Institute as well as by members of Idaho Nuclear Corp. both in the conclusions to the Indian Point and Oconee analysis interim report as well as in recent conservations in relation to the task force effort and at the recent meeting in Chicago.

We are impressed by these viewpoints from knowledgeable individuals involved in the analytical and experimental aspects of the ECCS problem on a first-hand basis.

Some of the essential areas of uncertainty in predicting ECCS performance are the following:

1. Core flow and heat transfer

Quantitative treatment of core flow and heat transfer before any engineered safeguards can be invoked (during the early portion of the blowdown, approximately the first 10 seconds of blowdown for a DE cold-leg break) involving flow oscillations and flow directions are not meaningful now, nor will they be in the near future, in terms of predicting realistic or conservative results. The distinctions between code numerical instabilities and realistic flow phenomena have not been adequately clarified. The associated heat transfer is treated essentially arbitrarily within the hydraulics codes, as well as within the artificially separated heat-up codes.

At the very best, good engineering judgment would lead us to the conclusion that only certain qualitative aspects of the codes may be valid; namely, that the core experiences relatively low flow for substantial periods during the blowdown and that a dry-out or very high quality condition develops early in the blowdown. The quantification of this observation may require a grossly conservative formulation as the only justifiable approach at this point in the development of the technology.

2. Accumulator bypass

Injection of cold accumulator water into a system high velocity steam has system implications which are not understood or, more importantly, have not been thoroughly investigated by analysis or experiment.

The message of recent semi-scale tests may be that system pressure fluctuations result from injecting and mixing cold water into a steam system. We have limited our efforts to predicting how much accumulator water gets into the vessel during blowdown (a prediction based on an assumption that one really knows when blowdown is over and ignoring the possible system effects of cold water injection), while neglecting what may be the more important and least understood aspect of the problem.

3. Reflooding and steam binding

Although arguments are being made that we can conservatively predict performance during the reflooding period, recent experience indicates that problems in this area are first coming to light; e.g., plugging of lines and location of safety injection systems. Notwithstanding all the assurances that one can obtain upper bounds on two-phase and superheated steam pressure drops, very little is known about these types of flow at high velocity through turning pipes, steam generators, and pumps.

Of paramount concern in this area, however, is the possible effect of steam generator tube failures on the ECCS. It seems clear that the area of steam generator integrity during blowdown requires an immediate and thorough evaluation.

Considering the above, the systematic generation of performance numbers on a plant-by-plant basis leads to an apparent understanding of the realities of the safety systems which is not justified, and erroneously leads to the belief that reasonable assurance has been established on an absolute numerical basis, namely calculated peak clad temperatures.

This process does not lead to increased understanding; but on the contrary, leads to a glut of calculations requiring large expenditures of financial and personnel resources, as has been recently experienced by the Babcock and Wilcox Company. The recent studies required of B&W by the REG task force represented 230 computer hours involving single runs for the double-ended break cases of 20-hour duration. The cost was in the order of $100,000 and did not include studies of small breaks which are known to be long in computer running time. These are estimated to require an additional 1,000 hours of computer time, for a total approximate cost of $500,000 without including the cost of tying up engineering personnel. This is unconscionable.

We regard these studies when tied into plant-by-plant licensing procedures as counter-productive. In addition to tying up vendor personnel, the effect is to also inundate the regulatory staff with great quantities of computer output whose significance cannot be clearly and readily comprehended. The net effect is to retard the necessary reviews, slow down the licensing process, and perpetuate a regulatory review system which is not leading to an adequate understanding of system performance.

RECOMMENDATIONS

On the basis of these observations and the indicated views of many experts in the field, we take exception to the simplistic argument of doing business in the best way we know how within the framework of the current state of the art as embodied in the present codes, imperfect as they may be.

We feel that the task force should realize that this may not be good enough for present safety evaluations and may be, in fact,

detrimental to an orderly and comprehensible licensing process.

We make the following recommendations:

The task force should make a clear distinction between a study effort directed towards the continued use and development of the LOCA codes leading to greater insights and understanding of the system performance, and an effort directed towards the development of a clearly separated, consistent, and unambiguous basis for the assignment of acceptable absolute performance of the reactor systems for licensing. The former effort would be considered a mandatory long-term industry-AEC effort. The latter would be a short-term REG operational formulation.

Some specific aspects of these separate approaches are as follows:

LONG-TERM RECOMMENDATIONS

1. Cooperative AEC-industry parametric studies

A determination must be made between the AEC regulatory staff and representatives of the nuclear industry on how to best channel the available talent, the present tools, and the funds being allocated for plant-by-plant computer studies, into more productive analyses and parametric studies that will lead to improved and more reliable understanding of the appropriate systems for emergency core cooling.

2. Model standardization

Development and standardization of models and calculational methods necessary for review of the safety systems for licensing. Consistent inputs should be established along with uniform assumptions regarding the physical phenomena involved. This is a necessary preliminary in order to begin identifying the fundamental system differences among the various plant designs.

3. New system studies

There is an immediate need to investigate possible ECCS design modifications, including changes in the basic system concept as well as alterations to present systems. Consideration must be given to the feasibility of a new concept which incorporates a system delivering water directly into the core region. For present systems, the volume, pressure, and location of accumulators, and the location of low and high head systems must be thoroughly reinvestigated. The latter investigation requires a better understanding of small break performance.

4. Steam generator evaluation

There is a need to investigate the probable performance and structural integrity that may be anticipated for the steam generator when, after years of continuous operation, it is subjected to transient behavior of the LOCA blowdown. Corrosion and pressure fluctuations clearly contribute to fatigue and diminish the strength of structural members. Under the added stress of hydrodynamic loading, due to high velocity fluid flow within the tube and load reversal during the loss-of-coolant accident (which may be postulated to occur well into the lifetime of the steam generator tubes) sufficient tubes may fail to adversely affect the ECCS performance.

5. Experimental programs

It is essential to recognize the urgent need for experimental verification of various aspects of the current and possible future ECCS designs.

In view of the usual lead time required in even the simplest experimental programs, the task force should assign an urgent priority to establishing immediate discussions with the reactor vendors to formulate test objectives and programs as well as to establish a method for cooperative funding for these programs.

These should include relatively simple tests such as may be conducted on the LOFT semi-scale as well as in the available SPERT vessel for the purpose of verifying the existing code formulations against simpler systems with some of the features of a reactor blowdown.

Future acceptability of the codes for licensing should be predicated also on some minimum experimental verification which should include the effects of cold water injection into steam-filled pipes or systems, and possibly other conditions which may be formulated by the task force.

SHORT-TERM RECOMMENDATION

For the immediate and interim period during which the above programs are being implemented, we would recommend the consideration of a moratorium on reactor power increases based on a maximum allowable kw/ft rating. Such a peak kw/ft limit would be technically justified on the basis of semi-quantitative arguments related to, but not necessarily limited to, considerations of the ECCS performance as indicated by the present codes.

The overall judgment should be, however, more broadly based, and we would recommend further that consideration be given to an overall moratorium on reactor design changes as well as on power increases (inclusive of both PWR and BWR plants) until adequate reactor operating experience is obtained.

The choice of a limiting value on kw/ft will necessarily have an arbitrary aspect, as does the present prescription followed in the licensing process, and we urge the task force to acknowledge these facts forthrightly and proceed to formulate a more reasonable basis for the establishment of the maximum allowable value of kw/ft.

For example, a value might be established on the basis that the stored energy in the core plus an arbitrary increment of metal-water energy and decay heat will result in a peak clad temperature of less than 2300° F. The calculation of core energy should be based on an allowable ratio of peak average power which clearly excludes unusual rod patterns, fuel loading schemes, or operating conditions (such as, say, 2.7).

Adoption of a licensing procedure along the line of the recommendation above will provide a breathing spell to allow time for a more acceptable understanding of the code limits and capabilities and the significance of the predictions of the ECCS performance. In this regard, we do not distinguish between BWR's and PWR's until the independently developed technology on BWR's is advanced significantly.

The recommended programs will require an estimated 6 to 12 months before any substantial output is available to materially influence our evaluation of the ECCS.

Requirements

Implementation of the above recommendations requires at least:

(1) the immediate assignment of 8 to 10 people at Idaho Nuclear Corp. to:

(a) develop standard calculational models and tools to perform calculations on the different reactor systems

(b) investigate new system concepts

(c) design and perform new experimental programs

(d) continue investigation of specific ECCS problems

(2) an urgent meeting of high-level industry and regulatory personnel to:

(a) obtain funding for industry participation in experiment and system design.

(b) streamline review procedures for ECCS.

TREATMENT OF THE HANDICAPPED

Mr. WILLIAMS. Mr. President, in the past few weeks I have asked for a reordering of priorities in our treatment of the handicapped. It is clear to me that we must examine closely our national policy and programing toward millions of handicapped Americans.

The urgent need for a strong national commitment to help the handicapped was emphasized in two recent newspaper articles. The first article, published in the Newark Star-Ledger, describes the Essex County Unit of the New Jersey Association for Retarded Children. Dr. Joseph Pikus, executive director of the unit, says that most of the mentally retarded, if reached with professional help at an early age, need not remain in the depressing environment of an institution for all or most of their lives. But to prevent this requires the awareness of those outside the health professions and outside the political milieu. The second article, published in the New York Times, relates the efforts of a group of students called the Brightstone Volunteers, Inc., who have been working to improve the living conditions in New Jersey State hospitals by doing the job themselves. They have painted dingy walls, cleaned rooms, and brought rare moments of laughter and companionship to the normally tedious lives of the mentally ill. This is the kind of awareness and commitment we need throughout the United States to relieve the plight of the physically and mentally handicapped. For too long they have been denied their right to equal educational and economic opportunity and for a fighting chance to lead a life of basic human dignity.

Mr. President, I ask unanimous consent that the two articles be printed in the RECORD.

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

MOST RETARDED DON'T NEED INSTITUTION CARE

(By Joan Osterhoudt)

Public attention has recently been focused on the plight of the mentally retarded who often are forced to live in institutions which provide inadequate care, staff attention and training.

The Essex County Unit of the New Jersey Association for Retarded Children, however, has noted that only one out of every 30 retarded children needs to be institutionalized.

Dr. Joseph Pikus, executive director of the unit, said that if proper facilities are provided to care for and train the retarded, 24 out of 30 could become independent and five of the 30 could progress to a semi-independent level.

The level to which the retarded can progress differs with each individual, he said. Some borderline cases are able to lead normal lives; others can become independent and work in the mainstream of industry, in jobs which require limited skills but are in the competitive labor market, he explained.

For others, sheltered workshops may be required where they can perform simple jobs and be paid for their efforts, he added.

In any case, proper training can help make many of the retarded full members of society rather than just placing them on the receiving end, Dr. Pikus said.

A full range of services is needed to accomplish this, Dr. Pikus said. He noted that providing such services in the local community is less expensive than keeping the individual in an institution.

In 1968, the Essex unit compiled a report which showed that keeping a person in a state or county institution for one year costs $2,722. Providing a community-based program,

however, would only cost $1,650 per person per year during the most expensive phase of training.

Dr. Pikus said care for the retarded requires organizing a lifetime program. He said such a program may begin with seeing the newborn in the home, to help counsel parents.

It is important, he said, that parents and other children in the family understand what is involved in caring for a retarded child. Help may be needed in teaching the youngster to walk and talk, and with toilet training.

"The earlier you get to the child, the more you can do," he said. Most public schools provide special education facilities for the retarded when they reach school age, but preschool programs are needed to insure the child has the skills to function in such classes.

In some cases, children enter school programs at age five, and are terminated because they don't have the necessary skills to remain. This does not necessarily mean they will never be able to function in that setting, Dr. Pikus said. In many cases such children are referred back to a preschool program for additional training.

There are children who cannot fit into a preschool or public school program, but they need not be institutionalized if the proper facilities can be provided, Dr. Pikus said.

In 1961, the Essex unit started the first day-care program in New Jersey. It is geared to those four-and-a-half years old to 21 years old and is designed to help give them the skills needed to live independently.

While those entering the day-care program have been diagnosed as unable to function in a school setting, after day-care training many can move into special education classes. Since the unit began its program, it has placed 150 day-care students into special education programs.

This pilot program led to a state commitment to build similar day-care centers throughout New Jersey, and there are 18 such programs now operating in the state.

Dr. Pikus said if the retarded are to be helped, employment is essential. He pointed out that the retarded perform better than normal people in jobs which require performing the same task over and over again.

Sheltered workshops help train the retarded in simple jobs, and give them experience in coming to work on time and working with others. Those who are able are placed in outside industry, others remain at the sheltered workshop where they can do some jobs and receive pay without having to enter the competitive job market.

For those who cannot be placed in a job or a sheltered workshop, the unit sponsors an activities center. This program helps teach the retarded self-care habits and other skills needed for independent living, such as money management. The group may shop for food, go bowling or to a library.

Without such a program, many of those in the activities center might have been placed in an institution, or would have remained in the home with nothing to look forward to except a day of watching television, Dr. Pikus said.

It is estimated that three per cent of the U.S. population is retarded, and in urban areas that figure can rise as high as 18 per cent. While community services and programs may be more beneficial and less costly than institutions, there are not enough to serve all who need them, Dr. Pikus said.

At the Essex unit's daycare program there are 33 persons enrolled and 35 others are on a waiting list. If enough staff were available, 45 could be helped by the program, but the unit would be unable to provide transportation to get all of the students to the center, Dr. Pikus said.

The transportation problem also affects attempts to provide the retarded with social activities. The National Council of Jewish Women, Essex County Section, operates two canteens for the retarded in Bloomfield and Maplewood. This program is designed to offer games and other social activities for young adults. However, there has been difficulty arranging transportation for the evening programs.

Dr. Pikus said another major problem, which only recently has been focused upon, is that of the retarded adult.

"As the child grows older, so do the parents. The parental support won't always be there," he said. What happens to the retarded adult if his parents become severely ill or die, he asked. Unless facilities are provided, the only alternative may be an institution, he explained.

This could be especially traumatic for an individual who has been maintained in community programs all his life, and has progressed to the point where he can function in a job or sheltered workshop and be independent, the doctor said.

"There must be something to allow them to live semi-independently away from home, but not in an institution," Dr. Pikus said. "These people have adjusted to living on the outside," he said, adding that a lifetime's work could be negated by this lack of a follow-up.

Publicity about institution's for the mentally retarded has caused the public and public officials to respond to the needs of the retarded, the doctor said. "But those of us who have been in this work for a long time know that the best planning is done on a continuing basis, not on a crisis basis," Dr. Pikus said.

TEEN-AGE "PAINT-IN" BRIGHTENS SOME LIVES IN MENTAL WARDS

(By David C. Berliner)

SECAUCUS.—It looked like rush hour in a beehive—hectic, buzzing, seemingly chaotic and yet marvelously disciplined. And in a special way it was beautiful.

"Let's get a ladder over to that corner . . . this shade of pink is quite nice, Peter . . . will some of you kids bring a ventilating fan into the shower room, please?"

The speaker: John Lydon, major-domo of an adventure that took more than 400 teenagers into a hospital for the mentally disturbed last Sunday to conduct a massive "paint-in."

"When we first entered this place, it smelled like a urine tank," Mr. Lydon told an onlooker as they wended their way through Ward 12 at Meadowview County Hospital here. "But these boys and girls ignored all of that and went to work. You can see for yourself."

All around the trim, prematurely gray 38-year-old college instructor, members of his organization, The Brightstone Volunteers, Inc., worked, sang or mingled with the patients.

Less than two years ago, Mr. Lydon, who teaches constitutional law at Fairleigh Dickinson University, brought together the first small group of volunteers. That nucleus has grown to more than 1,000, all dedicated to improving conditions in New Jersey's state hospitals and to "fostering enlightened treatment of the mentally ill."

A CHANGE BEGINS

The volunteers, most of them 14 to 21 years old, have thus far come primarily from Bergen, Passaic and Hudson counties. Mr. Lydon who can be reached at (201) 337-5523, hopes to expand throughout the state, picking up adult supporters and contributions of money and equipment along the way.

Until recently, the Brightstones had concentrated on paint-ins and parties at Greystone State Hospital in Morris County (their group name is a play-on-words with the name of that institution). In December, they paid their first work visit to Meadowview, and last Sunday completed their repairs on two floors of the sprawling hospital.

Charter members recall the "early days" in the fall of 1970, when their initial attempts to enter Greystone were met by a stiff wall of official resistance.

"We were told we couldn't even enter the hospital," said Joe Cicchelli, 19, a student at Bergen Community College. "We wound up painting the fences outside."

Then things began to change, even if more slowly than the supercharged volunteers would have liked. Says Mr. Lydon: "You can't just give these kids a dream—You've got to show them it can be implemented."

A step toward implementation was taken late last year, when the State Senate passed a bill proposed by Senator Garrett Hagedorn of Midland Park that would reorganize the New Jersey Department of Institutions and Agencies. Gov. William T. Cahill has since promised to appoint two of the Brightstones to the Board of Trustees at Greystone.

"We're not really trying to put the blame on the politicians," Mr. Lyndon explained as he signaled the end of a rest period for one of the work crews. "We'd often like to, though. We just tell them we'll paint the walls, but that we won't do a whitewash."

It would be difficult to hide the sad reality of conditions within the wards, despite Sunday's almost Mardi Gras atmosphere. On the two floors brightened by the volunteers, scores of elderly women sat in the hallways or dayrooms, mumbling incoherently or staring silently into the past.

WORDS OF PRAISE

A minority of them, drifting in and out of their private worlds in mid-thought, praised the youngsters. Emily, who insisted she was 67 and would be 72 in October, giggled and said "life here is dead when these beautiful boys and girls are not around."

Against a far wall in the dayroom stood a television set, mute testimony to the only form of entertainment available on "ordinary" days.

"If you saw the pictures of Willowbrook or those other hospitals in New York," a ward attendant whispered to a reporter, "you'd know what goes on in here. These poor people hardly ever have any control over their own functions, much less their minds. You can see that some of them are strapped in their chairs because we just don't have enough help. A number of the worst cases were moved to other wards today so the kids wouldn't get too upset.

As she spoke, crews of Brightstones could be found scraping peeling paint off walls in one room, scrubbing dirt-coated tile in another, disinfecting sanitary facilities in a third, and brushing on pink, beige, or green paint in a fourth.

For Jolie Zielinski, 17, a senior at North Bergen High School, Sunday's paint-in was her first experience within a mental hospital.

As she waited restlessly in the bustling staging area, Mr. Lydon told a gaggle of volunteers that each would be given a bar of soap to offer a patient as a parting gift later in the day. Then, while a newly arrived contingent of youngsters eased their way into the room, Jolie scurried over and gently tugged at his wrinkled shirtsleeve.

"What else can we do?" she prodded. "We just can't paint and leave. The people will sit here without doing anything after we're gone, whether the walls are pink or green or brown. What else can we do?"

LOSS OF U.S. FISH RESOURCES TO FOREIGN FLEETS

Mr. STEVENS. Mr. President, during the past weeks I have informed this body of the continuing loss of our fish resources to foreign fleets.

Last week a total of 268 vessels were in waters just off Alaska. But this exploitation is not confined to the North Pacific. We are all aware that New England's traditional fishing grounds have been depleted to a point where the stocks of haddock, yellowtail flounder and herring are barely in commercial supply.

In the mid-Atlantic States, the problem is becoming more serve. I ask unanimous consent to have printed in the RECORD an article from the April issue of National Fisherman which vividly describes the losses of fish to Virginians by foreign fleets.

It tells of violations of restricted areas by Russian fleets. Bulgarian and East German trawlers were fishing in closed spawning areas in February. And a Japanese trawler was reported by Government sources 2 years ago to have half-a-million pounds of lobster tails aboard.

Mr. President, as the pressure of this foreign exploitation of our resources builds up on the Atlantic coast, it is becoming more threatening off the shores of my home State of Alaska.

Today 140 Russian and 195 Japanese are there, some within sight of our shores; 138 Japanese and 72 Russian ships are taking groundfish in the area between the mainland and the Pribilofs in the Bering Sea; 8 Japanese are fishing herring in the area of St. George and St. Paul Islands; 32 Japanese crabbers are midway between the Pribilofs and Unimak; 17 Russians trawl for shrimp just off the Shamagin Islands; 6 Japanese and 3 Russians near Kodiak, and 11 Japanese between Dixon Entrance and Cape Fairweather, fish for black cod and perch.

Mr. President, the violation of treaties is an old story with many fishing nations, but we do not even have treaties to protect us with some nations who are taking our fish. Before it is too late, we must take quick, drastic steps to see that all foreign vessels, fishing off the shores of the United States, comply with at least the same laws that we impose on our own fishermen.

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

VIRGINIAN BITTER ABOUT LOSS OF FISH TO FOREIGN FLEETS

(By Burton T. Coffey)

We all feel for the New England fishermen whose traditional fishing grounds have been overexploited by foreign fleets, leaving the stocks of haddock, yellowtail flounder and sea herring depleted to a point where they are barely of commercial abundance.

But, although the International Commission for the Northwest Atlantic Fisheries (ICNAF) failed to stem the depletion until the damage was done, it has been able to regulate the fisheries on the international level and hopefully the resource will be returned to its former productivity.

On the other hand, the mid-Atlantic states are in another kettle of soup with no formal international board to kick the problems of their hard-hit offshore resources around, and outcries from the fishermen there have not received the public attention that those of the New Englanders have.

Virginia is in particularly bad shape, and the blame has been laid on the foreign fishing fleets that pass her coast while following the migrations of fish north and south.

Bill Hunt Jr. of Hampton, Va., whose family is deeply involved in the Virginia fishing industry including ownership of draggers, says New Englanders may have been badly hurt by foreign fishing fleets, but the Virginia fishermen have been nearly wiped out by the efficient Soviet Bloc contingents.

LANDINGS PLUMMET

Fishing out of Virginia has been very bad for the last three years, he says, and the number of deepwater draggers is down to a third of its original size. Landings have dropped off 65 percent.

His biggest complaint is the federal government's failure to listen to Virginian or other mid-Atlantic states fishermen. The result has been that the foreign fleets have overfished the resources with little objection from the U.S. despite warnings from local fishermen. "The bureaucrats are satisfied to believe the Russians," he said.

Unlike the international regulatory procedures taken for fishing grounds off New England, the U.S. deals individually with each country fishing off the mid-Atlantic states.

There are treaties with the Russians and other Communist countries for "no fishing zones" and suspension of fishing during certain spawning periods, but with countries like East Germany, no agreement is possible because the U.S. has no diplomatic relations with it.

A government source reported that only recently (February) there was trouble with Bulgarian and East German trawlers fishing in "closed" spawning areas, but he said that the trawlers left after a short fishing period.

However, other foreign fleets including the Russians were off Long Island, N.Y., in February and were moving south towards the mid-Atlantic waters, the federal government reported.

While off Long Island in waters regulated by ICNAF, U.S. surveillance flights reported 92 vessels in a 30-mile area 45–55 miles south between Shinnecock Inlet and Montauk Point, Long Island, and heavy fish landings were reported just outside the no fishing zones.

However, slightly to the south, six East German vessels were actively fishing inside the zone and heavy deck loads of fish and several bulging trawl nets containing 50,000 to 75,000 lbs appeared to be herring and mackerel.

With this armada heading south, "the pressure is off the New England grounds," a government source said.

But, the pressure on the mid-Atlantic stocks was about to begin, and it was doubtful whether there would be many Virginian boats out to vie for their share.

There are only about 26 draggers still fishing out of Virginia, and the last new one to be built was launched six years ago, Hunt said. "We've fished next to Russian boats after butterfish, and one time a large Soviet trawler had settled a foot after one day's fishing."

"If we find fish," he said, "the Russians beat us to it. They don't obey quotas or zones. They've run us off the grounds and we can't help it because of their large size."

Hunt said that while aboard one of his fishing boats, a 110' ex-subchaser, they hooked onto what he believed was a lost Russian trawl net. "It was so large we couldn't even bring it aboard."

The Hunt boat did salvage the cod end, and the mesh was a little more than an inch square. "We pull 2½" to 3" mesh for large porgies because that size is easy to market and the small ones are just trash. A large porgie has nice flesh. But, the Russians use everything, including the small ones, for fish meal."

In one incident, Hunt said, 96 Russian boats were ordered to leave a "no fishing zone" by the U.S., but the official report said only two boats were in violation.

It isn't only the Soviet Bloc vessels plaguing the Virginians. The Japanese, Hunt said, are landing lobster tails in Bermuda. Government sources say that such landings are incidental, but Hunt points out that two years ago a Japanese trawler had 500,000 lbs of lobster tails aboard.

Lobstering out of Virginia is only beginning to be developed as a major industry, but Virginia draggers have always taken incidental amounts to their usual catch. The state has no restrictions on size, and Hunt is against any being made. "Why should we throw short lobsters back when the Japs won't?" he asks.

"It's my opinion that since there are no restrictions on some fishing nations, there should be no regulations at all," he said.

Losing offshore fisheries is nothing new to Virginians, it's just that they are down to about their last one. Many boats, however, are converting to surf clamming which is being developed.

GIVE CREDIT WHERE CREDIT IS DUE

Mr. HANSEN. Mr. President, in these ecology-conscious times, it is easy to criticize industry for giving too little consideration to our environment. It is our responsibility to continue to point out instances where inadequate steps are taken to preserve the environment.

It is also our responsibility to give credit where credit is due, and with this in mind, I want to call attention to efforts by industry members of the Wyoming Oil Industry Committee, which had special groups working on environmental matters in 1961—before being concerned about the ecology became the "in" thing to do.

Mr. President, the Casper Tribune of March 19 contains an article about steps taken by the Oil Industry Committee to bring about clean water laws in Wyoming, and to meet the problems of protecting our environment. I ask unanimous consent that the article be printed in the RECORD.

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

ECOLOGY IS WOIC CONCERN

The Wyoming Oil Industry Committee, in its 14th year of operation in Casper, counts among its members representatives from every phase of the oil industry, from exploration and production, transportation and refining, to marketing including jobbers and service station dealers.

Officers include: Harold Simpson, Union Oil Co.; Lloyd D. Traupe, Marathon Oil Co., vice president; School Program; Harry Roberts, True Oil Co., vice president—Governmental Affairs; Pendleton Beall, Jr., Texaco, Inc.—vice president,—Know Your Industry Program; W. C. Blackburn, Continental Oil Co., vice president—Special Events; and W. A. Van Hook, Amoco Production Co., Treasurer.

TWO SPECIAL

Two special committees were established in 1961 to deal with environmental affairs.

In 1961, very few people were concerned with environmental affairs, and the word "ecology" was totally unknown to a majority of people.

In more recent years this committee has been one of the Wyoming Oil Industry Committee's most active committees, and they have tackled many problems and worked toward keeping Wyoming air and water up to the highest possible standards.

The committee was one of the leaders in securing passage of the 1967 legislative act

that established the present Air Resources Council, and their efforts to control pollution of the atmosphere has continued at a high level throughout the ensuing years.

CLEAN WATER

The committee's activities on clean water goes back even further, and a survey made in 1959 revealed that the Oil Industry in the state of Wyoming had spent $2.25 million in keeping the waters of our state clean at that time. Expenditures for keeping the water clean have accelerated since that time, particularly in relation to water produced along with the oil production.

In 1957, the three refineries in Casper realized that a problem was developing in the North Platte river as a result of oil activities, and each of the three refineries voluntarily took steps to eliminate any pollution that they might be causing.

DIRECT CONTRAST

This, in direct contrast to experiences in other parts of the country, and with other industries who did not take the initiative and voluntarily eliminate water pollution problems.

As a result, many of the rivers and streams in other parts of the country experienced a continuous degradation of their water quality. These other areas are now playing the game of "catch-up" while Wyoming citizens have enjoyed the high quality water throughout the years.

The effluent ponds into which Casper's three refineries channel all refinery wastes, including water, were constructed and all waters from the refineries are given special treatment in settling ponds and skimming ponds prior to going into the final pond.

The effectiveness of the treatment given the water before it reaches the ponds is clearly demonstrated by the ducks which swim in the water.

SMOKELESS TIPS

The installation, in the past two years, of smokeless tips on refinery flares is another evidence of the oil industry's efforts to control air pollution, and the results of these efforts are graphically illustrated by the accompanying photo showing a flare during an unusual condition at a refinery such as during the starting up of a new unit and comparing it under similar conditions with the smokeless tip in operation.

The Committees on clean air and clean water established an Oil Spill Contingency Plan to detect and control accidental oil spills, and this plan has been accepted and endorsed by the State of Wyoming Health Dept., and is in effect state-wide.

CIVIL RESERVE AIR FLEET

Mr. STEVENS. Mr. President, on October 27, 1971, the Subcommittee on Aviation of the Committee on Commerce voted its approval of S. 1821, a bill introduced by the Senator from Washington (Mr. MAGNUSON).

The legislation is needed to prevent the use of Government owned and operated aircraft for the movement of traffic that should move on civil carriers and which is in violation of the policy established and supported by Congress and the President over the past decade.

These policies were instrumental in creating a strong Civil Reserve Air Fleet—CRAF—in partnership with the Military Airlift Command—MAC—in order to provide a national defense airlift capability.

To acquire this capability, the Government has encouraged the carriers to participate in CRAF and stimulated them to modernize their equipment by offering as an incentive substantial peacetime passenger and cargo traffic.

There are many congressional and executive statements to the effect that in the interest of a free enterprise economy, Government operation of its own airlift resources should be limited to hard-core military activities leaving to the civil carriers the passenger traffic and more conventional kinds of military cargo airlift.

That as commercial carriers make available modern, economical long-range cargo aircraft and as further orientation of MATS to the hard-core function is effected, increased use should be made of the services of such commercial carriers. *Presidentially Approved Courses of Action, 1960.*

The Civil Reserve Air Fleet—CRAF—was established in 1951 to provide a ready means of mobilizing the commercial airlines in order to augment the military aircraft capability in times of national emergency. This concept has saved the taxpayers much in terms of the cost of buying and maintaining a much larger military capability than would otherwise be needed except to meet emergency peak requirements.

In order for a commercial airline to participate in the CRAF program, and thus become eligible for military peacetime cargo, it must agree to pull its airplanes allocated to CRAF out of commercial service and have them available for military needs within 24 to 48 hours. This civilian airlift reserve of airplanes and personnel has enabled our Nation to respond to events like the Berlin blockade, the Korean conflict, the Cuban missile crisis, and the struggle in Vietnam.

The CRAF program has provided enormous benefits to the Government, the air transport industry, and, most importantly, the entire Nation. This reserve fleet was obtained through private financing. In using the CRAF-participating airlines for military cargo and troop transportation—at rates below those paid by commercial passenger and shippers—the Government has not only stimulated a reserve airlift capability for wartime, but at a cost below what the taxpayers would pay if that fleet had been procured by the Air Force themselves.

METRO CONSTRUCTION

Mr. MATHIAS. Mr. President, the construction of the metro rapid rail transit system is proceeding rapidly in several parts of downtown Washington and across the Potomac in Virginia.

Yet to keep this massive project on schedule, prompt congressional action is required on the pending legislation to provide a Federal guarantee for metro bonds, and to authorize the additional funds which have been made necessary by the cost escalations of the past few years.

On March 1 and 2, the Senate Committee on the District of Columbia met with a subcommittee of the House Committee on the District of Columbia in joint public hearings on S. 2297 and H.R. 11877, the bond guarantee legislation submitted by the administration last year. Testimony on behalf of the legislation was received from the distinguished Senator from Virginia (Mr. SPONG); my two colleagues from Maryland, Congressmen GILBERT GUDE and LARRY HOGAN; the Secretary of Transportation; spokesmen for the Department of the Treasury, the District of Columbia government, the Council of Governments, and the Washington Metropolitan Transit Authority; and elected officials from all of the suburban Maryland and Virginia jurisdictions which are partners in this great regional project. Representatives of several leading citizens' groups also recorded their support for the pending bills.

In my view, these hearings were extremely constructive. The range of knowledgeable witnesses, representing all levels of government and nongovernmental groups, emphasized again the breadth and depth of support for the metro system. In the course of the two sessions, the committees had the opportunity to explore with these witnesses many of the complicated questions involved in the planning, financing, and operation of a regional mass transit system. The information gleaned during these hearings should provide a solid foundation for prompt congressional action on the bond guarantee bills.

As one of the sponsors of S. 297, I wish to express my appreciation for the cooperation on the part of the House District Committee which made these joint hearings possible. In particular, the distinguished Representative from Texas, (Mr. CABELL) chairman of the House subcommittee, should be commended for his sincere interest in the transportation problems of the Washington area and his desire to develop sound, prudent, and effective legislation to meet Metro's current needs.

I ask unanimous consent to have printed in the RECORD the statement I presented at the hearings and an editorial in support of the bond guarantee legislation, published in the Washington Evening Star of March 3.

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

OPENING STATEMENT OF SENATOR MATHIAS
MARCH 2, 1972

It is a pleasure to welcome you to this second day of joint Senate-House hearings on S. 2297 and H.R. 11877, legislation to provide a Federal guarantee for Metro bonds, and for other purposes.

This legislation is the next essential step in financing the construction of the 98-mile regional Metro system. The bills answer our two urgent needs: assuring that Metro's bonds can be marketed at reasonable cost, and providing the additional funds required because of the cost escalations of the past few years.

S. 2297 was introduced last year by the four Senators from Maryland and Virginia: Senators Beall, Spong, and Byrd as well as myself. This joint action symbolizes, I think, the regional unity which the entire Metro effort enjoys. It is a unity which is expressed not only on Capitol Hill, but throughout the entire National Capital area. The people and governments of all jurisdictions in the region have made substantial financial commitments to build tracks which in some cases will not reach their own neighborhoods for several years. They have worked together at

each point of legislative decision in a common lobbying effort which has had impressive results and has been crucial in keeping Metro on the track.

The Metro system is essential to a sensible attack on the tremendous and complicated transportation problems of this region. But Metro's trains will do more than just carry people from place to place. The system will—in fact, already has begun to—forge a strong bond between the central city and the surrounding suburbs. It will promote the sense of regional cooperation which we will need to tackle other challenges of regional growth and change in the years ahead.

The legislation before us today has been carefully devised as a sound and prudent answer to the systems' current financial needs. I know that my colleagues on the Senate Committee and our counterparts in the House will examine the bill's provisions in detail to insure that this is really the best way to secure the greatest benefits at lowest cost. I intend to do my part in carrying out this review expeditiously, so that the Congress can act with dispatch and meet its own responsibilities to keep Metro moving ahead.

[From the Evening Star, Mar. 3, 1972]

FAITH IN THE METRO

It is no exaggeration to say, as a good many knowledgeable people have during the past two days, that the future of Washington's metro subway system is riding on Congress' approval of a federal guarantee of $1.2 billion worth of transit revenue bonds.

Recognizing the issue's importance, House and Senate District subcommittees have met this week—and the precedents for such action are rare—in joint session. What they heard from a parade of witnesses was unanimous support for legislation which the Nixon administration carefully has worked out to avert a severe fiscal crisis.

Two events require the bill's enactment. First, escalating subway construction costs, mainly due to inflation, have sharply increased the volume of revenue bonds needed to finance the system. Further, investment experts advise that, without the underpinning of a federal guarantee, the bonds would be difficult if not impossible to sell under present market conditions. This is understandable in view of the complicated formula under which the bulk of the system's financing depends upon regular, substantial contributions from the federal government and no less than eight local political jurisdictions.

The administration bill proposes changes to satisfy both needs. Along with a federal guarantee, the Treasury would assume one-fourth of the bonds' interest costs, thereby enabling the subway authority to market an additional $300 million worth of bonds. At the same time, making the bonds taxable—rather than tax-exempt as proposed earlier—would provide sufficient new federal revenues to offset the Treasury's 25-percent interest subsidy. And the local governments of this area, for their part, would increase contributions to the tune of $150 million to assure a fair local sharing of the total costs.

This new arrangement, as spokesmen for Treasury Secretary Connally testified, is consistent with the federal fiscal policy prevailing in a number of other programs. It would enable the subway authority to enter the bond market almost immediately to get dollars needed to maintain construction schedules.

But equally important, as Transportation Secretary Volpe testified, the plan reaffirms the federal government's already-expressed commitment to complete a system vital to the Nation's Capital. "With no additional cost to the federal government," Volpe said, "we are telling investors that we have faith in Metro, and they should, too."

The approval of this workable plan is not the only action required, however, to ensure the constant orderly financing of rapid transit. Congress' further obligation is to avoid, at all costs, any repetition of the nearly disastrous episode in which District subway appropriations were held hostage for two years because of congressional dissatisfaction over the progress of District freeway construction. The subway funds were freed as the result of a decisive floor fight in the House a few months ago. We trust that battle ended once and for all any effort to play one program against another.

Highway and subway construction are related to the degree that both are needed to provide the total diversified transportation network this city requires. But such highway issues as still exist, or which may arise in the future, must be resolved on their own merits, without imperiling a transit financing plan whch is at best delicate and exceedingly complex.

EARTH BENEFITS FROM SPACE AND SPACE TECHNOLOGY

Mr. CURTIS. Mr. President, the keynote speech at this year's Goddard Memorial Symposium was given by Dr. Wernher von Braun. Entitled "Earth Benefits From Space and Space Technology," it is a very worthwhile statement of the importance of space to life on earth.

Dr. von Braun has the rare ability to mix practical points with philosophical issues in a way that leaves his listeners entertained but, more importantly, enlightened.

Among the issues discussed by Dr. von Braun are the importance of technology to our standard of living, the necessity for maintaining high technology exports, and the dangers arising from those who would make America an inward-looking society. On the last mentioned point, Dr. von Braun tells of an episode in Chinese history which illustrates how a great nation can forfeit its legacy and consign itself to decay and outside invasion.

Tomorrow, the Aeronautical and Space Sciences Committee will hear testimony on space applications programs within NASA. Dr. von Braun's speech serves as an excellent context for those hearings.

Mr. President, I ask unanimous consent to have Dr. van Braun's memorable speech inserted in the RECORD.

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

EARTH BENEFITS FROM SPACE AND SPACE TECHNOLOGY

(By Dr. Wernher von Braun)

We are here to explore the relevance of aerospace technology to industry and the community. It is not an easy assignment.

One of the most difficult tasks is to demonstrate for public understanding the relationship between a vigorous aerospace industry and the national economy, between American leadership in aerospace science and technology and America's high standard of living.

The major contributions to our standard of living by the aerospace industry are not felt directly by the bulk of our population, and therefore are not identified with the industry. Even more remote are the effects of large federal programs in developing aerospace science and technology which are basic to the industry's activities.

Superficially, it is deceptively easy to furnish numerous examples of innovations from aerospace programs which have entered non-aerospace fields of medicine, commerce, business, industry and education. The list is impressive. But, individually, and scattered throughout the economy, they make little or no impression on the public.

It is even harder to measure precisely the intangible gains from space activities in terms of national prestige, spirit, and life concepts. Yet the achievements in space have contributed significantly to all of these things. It is impossible to put numbers on these abstractions, but they may be the most important legacies of our activities in space.

One of the problems of informing Americans of the very real contributions made by the space program is the lack of visible, direct links between what we spend on space activities, and any important gains for society. There are literally no tangible, direct benefits that are *visible* to Americans which seem important.

We can talk all we want to, for example, about the important scientific and technological capabilities we are creating for the nation—capabilities which are basic to much of what the public wants done—and it means exactly nothing. People do not relate science and technology to the everyday business of living, fighting the daily traffic, and buying the groceries. If they do, they are apt to cuss it.

We can point in vain to communications and weather satellites which are revolutionizing worldwide telephone, television and weather forecasting techniques. People simply yawn. They rarely if ever phone Europe or Japan, they can still catch the ball game on TV, and they still get caught in snow storms.

So, who needs the space program?

In this Symposium, we are addressing ourselves to a narrower discussion of space technology transfer to community and industrial activities. Yet, I would hope that some thought for public understanding of the subject matter will be included in the presentations, for that is the ultimate aim of these deliberations.

Almost two years ago, Dr. William D. McElroy of the National Science Foundation told a House committee that "civilized man cannot long survive on this planet without increased creation of new knowledge and its enlightened use."

He added that the best means to insure continued support of basic science and its smooth transition to applications were the mission-oriented agencies.

Dr. McElroy was speaking for the need of a sweeping re-evaluation of science and technology and their roles in society. But he could have been describing the broad role of large NASA programs, such as Apollo and the manned space shuttle. NASA is a mission-oriented agency. Its programs, like Apollo and the shuttle, focus the energies, the brains and imaginations of large numbers of talented people working in all the disciplines in a concerted, coordinated effort which advances science and technology over a broad front. NASA grants have supported research for a broad body of basic studies, and our scientific spacecraft have telemetered back to Earth vast quantities of basic data on phenomena of the solar system and universe. Returns from the Apollo lunar explorations are so great that it will be years before we will know its full value to mankind, but already the increase to our knowledge and understanding is priceless.

These contributions alone go a long way to justify the space program. But the benefits to be derived are largely in the future, whereas the public is more sensitive and responsive to the here and now. Many examples exist of space technology adapted to nonspace use, but the significance of almost all of this

has had little visible effect in the public consciousness.

Of course, we all expected it would be a little while before our space activities brought benefits easily identified as important in the public eye. What we did not foresee among future "benefits" was that Apollo would arouse a new, more Utopian concept of what government can do to improve the quality of life here and now on Earth. Demands and expectations for immediate improvements in society are on a scale which considerably exceed the cost of a manned expedition to Mars.

Ironically, in the general clamor to reorder national priorities, NASA—far from being credited for this service—found itself relegated to a level of decreased budgets.

Our difficulty is that as a nation of short-term pragmatists, Americans are not geared mentally to long-range planning and deferred benefits from advanced science and technology programs.

The coming decade may see some shift in the public attitude and a growing awareness of the contributions of space, however, as applications of technology from NASA programs gain prominence.

Space technology has a substantial value to the non-aerospace field. We all know it, but the problem is to get the public to know it. The simple fact is America has built its strength and its standard of living on its leadership in technology. In the past two decades or so, our high productivity in high technology products has kept us ahead of the competition from abroad. The only way to stay ahead is to continue to invest in our high technology-producing aerospace programs.

A glance at our big foreign trade surpluses tells why. The excess of annual U.S. exports over imports is in high technology products, such as aerospace, running at $3.6, computers at $1.1 billion, and machinery, $1.0 billion.

Just the reverse is shown by our low technology products. Motor vehicle imports over exports are $3.3 billion, followed by clothing and textiles, $1.9 billion, and iron and steel, $1.9 billion.

I think these illustrations indicate quite clearly which side our bread is buttered on: we are strongest in high technology, and weakest in low technology competition. American leadership in aerospace research and development has given us a world market in products which require constant advances in high technology and high productivity, activities in which we have excelled for a generation or more.

In the low technology fields, however, where products can be produced by cheaper labor, the competitive advantage lies with foreign industry where wages are lower. Although this country is the leading motor car producer in the world, for example, the bulk of our car market is within the United States, and export sales abroad meet stiff competition. Foreign car manufacturers, however, are increasingly building up their sales here because they are competing against labor costs, not high technology.

The importance of what we do in aerospace technology may be lost on some Americans who find it hard to relate their everyday lives to space projects and activities. But there can be little doubt that economically our standard of living depends upon our maintaining vigorous programs in developing aerospace science and technology.

This is the broad picture of the benefits coming out of our aerospace programs and industry. I think it is extremely important that we Americans gain an understanding of how basic the development of high technology—especially high aerospace technology—is to our standard of living.

Every industrially capable foreign country is ambitious to penetrate the lucrative markets our high technology has developed, of which the domestic American market is the prime target. Already there is a rising tide of competition from overseas in electronics, aircraft, instruments and controls, telecommunications, and others. It isn't hard to see where this trend will lead if we permit it. The only alternative visible—and I think you will agree that it is a most undesirable one—is for Americans to reduce wage levels so that we are competitive with overseas labor in the low technology areas.

Now let's look at some other benefits of space and space technology.

Space exploration has made a real impact on astronomy. Historically, astronomy has played a key role in the development of civilization for thousands of years, in agriculture, geography and navigation. In later times, astronomy has figured in a welter of discoveries in the physical sciences and their experimental tools—including optics, spectroscopy, specialized photography and infrared techniques. Traditionally also, astronomy has served to advance mathematics and philosophy.

Space technology has now added a new dimension to astronomy by providing better observation of celestial objects through the elimination of atmospheric refraction and systematic errors. Benefits range from a large number of new discoveries in planetary physics, geophysics, and the chemical and physical properties of the solar system and the galaxies beyond.

All these discoveries are changing our concepts of the universe and man's place in it profoundly. Concepts of man and the universe, and man in the universe, motivate our thinking and actions on Earth. Are contributions to such concepts unimportant to the quality of life Americans strive for today? On the contrary, I think they are basic to the definition of what we mean about quality in life. Without a growing precision of our definition of the universe and its elements, we cannot hope to improve more than the physical aspects of day-to-day living; predictably, life would then soon degenerate into crass materialism.

So, by providing spacecraft to carry the astronomer's instruments and telescopes, the space program is contributing to the fundamental welfare and betterment of mankind. True, these are long-term contributions. They will not directly put food in our mouths, roofs over our heads, or clothes on our backs. But surely no one will say they are unimportant, that we can put off acquiring the abstract benefits of space astronomy indefinitely because of more "urgent" problems. Is materialism our most urgent requirement?

The correct answer, I believe, must be to supply both our material and conceptual requirements simultaneously—sufficient to the physical welfare of people and the growth of cosmology and the sciences.

In the area of technological innovation or spinoff, some of which will be discussed here today and tomorrow, there have been major civilian applications that are now in commercial development. NASA has described many thousands of other potentially commercial space program developments which are available for use. However, because the time cycles of orthodox American industry—from invention in the laboratory to the appearance of a product on the market—range anywhere from 10 to 25 years, only a relative few examples of transfers have been documented.

In the medical field, there have been individual instrument and equipment transfers that are particularly impressive. These range from improvement in X-ray diagnostics and physiological sensors to special equipment for handicapped patients, and a widening use of remote monitoring of hospital patients.

Some contributions from the space program occur when research spurs consolidation within a field by developing an application for known technology not previously used in that manner. One such contribution, in fluid dynamics, was the consolidation of technology in very low pressure devices for control systems. A machine tool manufacturer noted its significance and studied it for use as a control principle in operating automatic turret lathes. A prototype proved successful, and the company has built these machines in three sizes. They have been sold in a price range of $35,000 to $75,000 each.

The petroleum industry has been aided by technology directly resulting from space research. High quality color photographs of the Earth taken by our astronauts have helped locate potential oil-producing sources. Navigation via satellite has allowed marine explorers to fix their positions regardless of the weather. Airborne multispectral scanners, developed for the Earth Resources progam, have provided color imagery of the terrain, permitting identification of different rock types, including oil-producing outcroppings. High speed gravity measuring techniques, used in studying lunar gravity, permit faster and less expensive survey of offshore areas. The magnetometer experiments deployed by Apollo astronauts are adding to our knowledge of continental drift which petroleum geologists find of direct interest in their work.

In addition to its contributions to liquefied natural gas carriers in shipbuilding, NASA-generated technology has opened new possibilities for the surgeon in cryogenic surgery. In surgery, cryogenics has been used to treat Parkinson's disease, remove tumors and cataracts, and for bloodless tonsilectomies. Cryogenic superconductivity signals a new generation of motors, computer memory cores, power transformers, magnets and transmission lines.

It now seems that the food industry, facing increasing problems in the use of food additives and nutritional quality, may be able to draw on NASA's extensive knowledge about food processing, preservation, and nutritional value. We have extremely rigid requirements for the food we supply the astronauts since any type of food system failure would have grave consequences. Food must be free from bacterial contamination; it must be of high, known nutritional value; it must be stable without refrigeration under wide temperature variation for long periods of time; and it must be capable of fast, reliable and fool-proof preparation.

The precautions we have taken with food for the astronauts have led to new and improved methods of processing, preserving and sterilizing it. These may have significant value to both the food industry and the consumer. For example, a floor company, responsible for a number of food items for NASA, has developed pre-cooked, prebuttered rolls that are preservable up to 600 days. In another case, a scientist under NASA contract produced an instant rice that is truly "instant." Normal hot tap water (about 155 degrees F) can be used, and it takes under three minutes to serve from shelf to table.

Using NASA-developed methods, certain foods can be prepared and stored for emergency situations. If a disaster occurred, the food could be immediately shipped to the stricken area with no loss in preparation time and no need for refrigeration.

Space research and aeronautics, as we all know, have a lot in common. Aeronautics has contributed a great deal to the advance of space systems, and similarly the space effort has reciprocated. One of the most notable examples that comes to mind is the space program's contribution to air navigation.

Before the airlines began populating the skies with 10-mile-a-minute jetliners, precise navigation—while important—was not

so critical as it is becoming today. Now, however, thanks to Apollo, airline pilots have available a new navigation aid that gives them instantaneous and continuous position reports. It operates on the same basic principle that enables our Apollo astronauts to pinpoint their positions far out in space. The heart of this system is a computer fed by a series of accelerometers which sense every movement of the airplane, up or down, sideways or forward. The computer translates this data into the instant and continuous position reports required by pilots flying the crowded airways.

The system is self-contained, and therefore independent of radio, radar, weather, and interference. Because it is more accurate than previous navigation devices, it contributes to a shorter flight time and savings in fuel. Only the most modern airliners now have these navaids, but the new generation of aircraft being built will employ them widely.

Related to this benefit is another planned navigation aid of an even higher order. NASA, together with the airlines and other government agencies, has used the applications technology satellites to demonstrate how a satellite may serve as a space reference point.

We have shown that the satellite can provide position fixes of exceptional accuracy. The planned operational system will be a complementary means of navigation to individual aircraft. In contact with both airplane and land-based stations, the satellite can give the traffic-controller an independent means to follow the airliner's progress. Satellite-relayed data can confirm or correct the pilot's position reports, which are based on his onboard equipment.

Today there is profound concern about clean water and clean air. Space technology can play an important role in helping achieve both. Environmentalists may be interested in an advanced type of sensor that measures carbon monoxide concentrations; this device was developed in a program initiated by our Langley Center. The Langley experiment is designed to make global measurements of carbon monoxide over a period of a year in order to map the portions of the atmosphere with high, low and average concentrations of the gas. In this way, scientists hope to identify the so-called removal sinks in which the gas is changed to another compound.

This may help to solve the riddle and explain why the total concentration of the gas in the air is not increasing, although motor car exhausts, industrial activities and other sources generate some 200 million tons of carbon monoxide each year. Scientists have estimated that the atmosphere contains about 500 million tons of carbon monoxide, but measurements over a period of years have not shown appreciable increases. This implies there must be some natural mechanism that removes most of the gas as it is generated. It would aid environmental control efforts to know what the mechanism is and its capacity for converting carbon monoxide to another compound.

In the effort to obtain cleaner water, we have a lightweight precision sensor designed to detect color gradations in water so oceanologists can spot pollution. Called a multichannel ocean color sensor, it is more sensitive to color than the human eye, and will be flown initially on aircraft. Eventually, it may be placed aboard spacecraft for monitoring the oceans. Data it provides can also be used to spot areas where fish are likely to be, and to study marine biology.

Given repetitive exact color information from this device, oceanologists can chart trends in pollution and marine life for use in preserving and developing ocean resources.

The major contribution for environmental uses is, of course, the Earth Resources Technology Satellite, now scheduled to be launched in the first week of June. We believe this may have the greatest potential of all for realizing hard economic returns from space exploration.

Information from the ERTS' battery of sensors will be relayed to an Earth-based, computerized data-handling and analysis network. In this way, regional data banks all over the world will receive daily volumes of data that can be put to work for man's benefit in three basic directions:

The information will help provide more of everything through far better management of the world's resources.

It will uncover new resources.

It will identify trouble areas so that remedial action can be taken at the earliest possible time.

To give you an idea of the volume of data traffic to be received, the ERTS satellite will relay several hundred million bits of information daily to Goddard. Goddard in turn will produce some 300,000 color, black and white, and digital type photos of the Earth's surface each week.

Our Skylab, to be launched next spring, will tie into ERTS experiments by supplying complementary information from astronaut-monitored experiments aboard the space station. At the end of each manned visit to Skylab, the astronauts will bring back with them data on photographic film and digital data on magnetic tape. These Skylab experiments will form an important part of the development of instruments and sensors for the ERTS program because the astronauts will monitor their performance.

The space shuttle, however, offers the greatest potential for space benefits over the long term. It will be the first true space transport due to its versatility as a carrier of men and equipment, its flexibility in operations, and its ability to make repeated missions on a routine basis. While the civilian-oriented missions are the most intriguing in NASA's eyes, the Defense Department also sees its usefulness in military operations—for the launch and recovery of surveillance satellites, for example.

The shuttle's cargo bay can be used not only to carry a variety of spacecraft to be placed in desired Earth orbit, but also will accommodate a complete laboratory module in which scientists and engineers can conduct experiments under space environmental conditions. In addition to placing spacecraft in orbit, the shuttle can retrieve them for repair, or to install new experiments, and reuse. This means that scientific and other space satellites can be built less expensively than they can at present, because designs need not include such high standards for reliability. More off-the-shelf items can be used, resulting in large dollar and time savings.

The space shuttle now planned will be only the forerunner of much more advanced multiple-mission type spacecraft. The knowledge we shall gain from its design, construction and operational performance will teach us a great deal more about such vehicles and their uses. To fully utilize space for the benefit of man, the multiple-mission spaceship is a must.

The work that NASA is doing in advancing science and technology—pushing forward the frontiers of knowledge—cannot be overstated. The vigor with which we carry on the development of science and technology, the spirit with which we explore the unknown, are characteristic of vital, growing nations that will be ready with the answers to problems of the future.

There's a little-known anecdote from history which illustrates the role played by science and technology in the life of a great nation. It appears in Volume 4 of Joseph Needham's "Science and Civilization in China." It relates how political decisions dimmed and finally extinguished the final blaze of splendor of one of the world's great civilizations.

Needham says that a series of seven expeditions began to explore the seas to the south and west of China in 1405. Under command of Cheng Ho, the fleet carrying 37,000 men reached the town of Malindi in what is now Kenya three-quarters of a century before Columbus made his first voyage to America. By 1433, Cheng's fleet had reached Mecca, and by the time he left Africa for the last time the Portuguese had hardly begun to explore the continent's west coast.

Compared with contemporary European ship technology, the Chinese armada was a revelation. Sixty-two of the ships were 9-masted galleons 450 feet long from bow to stern and more than 180 feet in beam. The vessels not only had multiple masts, but also fore-and-aft rigged sails, and true axially mounted rudders. Strong bulkheads divided the hulls into naturally watertight compartments. The Chinese also installed pedal-operated bilge pumps, developed from the principle of the noria used in ancient China to raise water into irrigation channels. These last two items did not appear in European ships until the 18th century.

Besides these great ships, Columbus' vessels appear pitiful.

Cheng Ho's expeditions were, however, the last important explorations of the seas made by China. The political decisions that killed them, Needham says, were part of a decisive turning inward of China's civilization. Despite China's early and extensive lead over Europe in science and technology, it was not in China that the scientific revolution took place. Yet, a Chinese visitor to England in 1400 A.D. would have considered that country technologically backward.

Let us hope we can learn from history. There have been disquieting signs of an "inward turning" among Americans which we can only hope is but temporary. Carried to the extremes that occurred in China of the middle ages could be nothing less than a catastrophe to modern America.

Scientifically and technologically, however, we have built the foundations for America's greatest age. Space offers the opportunity to fulfill the requirements of the spirit while we increase our capabilities to meet the material needs of ourselves and fellowmen.

WELFARE REFORM

Mr. RIBICOFF. Mr. President, in the coming weeks the Senate will have an opportunity to debate the merits of welfare reform. The debate should focus on the facts, not on the mythical beliefs that have too long enshrouded welfare reform.

Recently the Department of Health, Education, and Welfare released parts I and II of the Findings of the 1971 AFDC Study. These data contain the most recent information available on the actual operation of the present public assistance program of aid to families with dependent children.

I asked unanimous consent that summaries of parts I and II be printed in the RECORD.

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

FINDINGS OF THE 1971 AFDC STUDY

PART I. DEMOGRAPHIC AND PROGRAM CHARACTERISTICS

This report provides information on demographic and program characteristics of the families who received an assistance payment in January 1971 [1] under the aid to families

[1] The study month was December 1970 for Wisconsin and October 1970 for California.

with dependent children program, including the unemployed parent segment. This is the first of two reports; Part II will provide information on the financial circumstances of the families. The reports provide information for the nation, for census divisions, and for 21 States.

The data were derived from a one percent [2] sample survey which included all States and jurisdictions except Guam. Findings from the study are inflated to represent all families receiving money payments during the study month. Data for States not shown separately are not available because their respective samples were not sufficiently large to produce reliable results. State welfare agencies were responsible for completion of the study schedules.

Changes in AFDC, 1969–71

1. *Three out of four AFDC families now live in a metropolitan area.* Families living in metropolitan areas, whether within or outside the central cities, increased from 72.4 to 74.4 percent.

2. *There was a decrease in black families receiving AFDC.* Black AFDC families declined from 45.2 to 43.3 percent, whereas there was little change in the other major racial groups.

Race	1969 percent	1971 percent
White	48.1	48.3
Black	45.2	43.3
American Indian	1.3	1.2
Other	.6	.7
Unknown	4.8	6.5

3. *For the average AFDC family, the time on assistance has become shorter, and there are more first-time recipients.* The median time on assistance, from the latest opening of the case until the study month, has dropped from 23 to 20 months. Consequently, there are relatively fewer long-term recipient families who have received AFDC for 5 or more years (the decrease, from 22.8 to 17.7 percent). Families receiving AFDC for the first time increased from 59.7 to 65.8 percent.

4. *There has been an increase in both small families and young families.* Families with only one or two child recipients increased from 49.6 to 54.2 percent. In 1971, 3 in 10 AFDC families have only one child recipient. From 1969 to 1971, the average number of child recipients per family dropped, the magnitude of the decrease being greatest for intact families.

Number of adult recipients	Average number of child recipients	
	1969	1971
None	2.2	2.1
1	3.0	2.7
2	3.9	3.5

The downward shift in age among AFDC families includes both parents and children. Mothers under age 25 increased from 24.2 to 28.2 percent; fathers under 25, from 13.2 to 15.7 percent.[3] The proportion of all children under age 6 rose from 32.5 to 34.3 percent.

5. *There was a decline in illegitimacy and in multi-parent families.* Families with one or more illegitimate children decreased from 45.1 to 43.5 percent. The proportion of all AFDC children who are illegitimate dropped from 32.1 to 31.4 percent. Multi-parent families, that is, families in which there are two or more children with different fathers or mothers, decreased from 31.0 to 27.6 percent.

6. *In most AFDC homes there is only one parent, but there was a small increase in two-parent homes, and more fathers in the home are unemployed.* Families with two adult recipients increased from 11.9 to 12.9 percent. Families with mothers in the home increased from 91.7 to 92.8 percent; with fathers in the home, from 18.2 to 18.7 percent. The proportion of fathers in the home who are unemployed rose from 1 in 4 to 1 in 3. (Unemployed fathers as a proportion of all fathers increased from 4.6 to 6.1 percent.) The increase in two-parent homes was accompanied by a drop in families with orphaned children. Families with father dead decreased from 5.5 to 4.3 percent; with mother dead, from 2.4 to 1.9 percent.

7. *There was a decrease in parents who are mentally or physically incapacitated.* Families with an incapacitated mother dropped from 13.7 to 11.3 percent, and with an incapacitated father, from 11.7 to 9.8 percent.

8. *Marital breakup remains the primary reason for absence of the father, with an increase in separations and divorce.* Close to half of all AFDC families now need assistance because as a consequence of marital breakup the father is absent. Families with divorced parents increased from 13.7 to 14.2 percent, and with parents separated, from 13.7 to 15.8 percent, almost all of the latter increase being in separations without court decree. Nonmarriage of the parents, the secondary reason for absence of the father, remains about the same.

Status of father	1969 percent	1971 percent
Absent:		
Marital breakup, total	43.3	45.2
Deserted	15.9	15.2
Separated	13.7	15.8
Divorced	13.7	14.2
Not married to mother	27.9	27.7
In prison	2.6	2.1
Other reason	1.6	1.2
Other status (dead, incapacitated, unemployed, other)	24.6	23.6

There was a slight decrease in desertion of the family by either parent: by the father, from 15.9 to 15.2 percent; by the mother, from 3.3 to 2.9 percent.

9. *There was a small increase in full-time employment of mothers, but more are needed in the home.* From 1969 to 1971, there was no overall change in the labor force attachment of AFDC mothers, which remained at 1 in 4 women who were either working, looking for work, or accepted in a work or training program. Within the individual categories, however, there were some changes: an increase in full-time employment from 7.5 to 8.3 percent, as well as slight decreases in part-time employment and work or training program acceptance. The absence of significant change in the employment status of mothers is related to small increases in mothers considered to have no marketable skills and in mothers who have never worked (from 22.8 to 23.5 percent). The increase in mothers needed in the home (from 35.5 to 37.1 percent) is probably due in part to the increase noted above in young AFDC children.

10. *Children of mothers working or being trained are most likely to be cared for in their own homes, but there was some shift to care outside the home.* In families with a mother employed or enrolled in a work or training program, there was a decrease in arrangements made for care of children in their own homes, whatever the age group. The shift to care outside the home included other persons' homes as well as group care centers, although the latter arrangement is much less common.

[In percent]

Child care arrangement [1]	Under age 3	Aged 3 to 5	Aged 6 to 14
In own home:			
1969	44.7	42.6	40.2
1971	42.1	39.7	36.1
In someone else's home:			
1969	35.6	30.9	20.3
1971	39.2	32.7	16.6
In group care center:			
1969	5.6	13.1	2.7
1971	6.8	14.3	3.5

[1] Residual categories not shown.

There was also an increase in the likelihood that children aged 6–14 would be unsupervised during the mother's absence from (16.8 to 18.7 percent).

11. *Nonmigrating mothers increased.* Mothers who had never lived outside their present state of residence increased from 37.9 to 40.3 percent. Mothers who had lived elsewhere were most likely to have come from the South, but there was a slight shift between 1969 and 1971 from the South to the Northeast or West regions as last place of residence.

12. *The educational attainment of AFDC parents has risen.* Mothers who have completed high school increased from 23.2 to 27.5 percent, and fathers, from 20.9 to 27.4 percent.[4]

13. *WIN referrals and enrollments increased.* Families with one or more members referred to WIN during the past year increased from 13.1 to 17.6 percent, and with one or more members enrolled, from 6.2 to 8.8 percent. The increase for mothers referred or enrolled was greater than for fathers. In 1971, about 1 in 3 unemployed fathers is enrolled in a work or training program. WIN referrals and enrollments of children aged 16 and over also increased slightly but remained relatively low.

[In percent]

Family member	Referred		Enrolled	
	1969	1971	1969	1971
Mother	9.1	12.5	3.7	6.0
Father	3.5	4.7	2.1	2.4
Child(ren) aged 16 and over	.9	1.0	.4	.5

14. *Although there was an overall drop in services to families, there was also evidence of a reduction in need for services.* Families provided one or more services during the past year decreased from 92.5 to 80.9 percent. However, among families for whom a service plan had been developed and recorded, those found not to need services rose from 8.5 to 15.9 percent. There were decreases in specific services in all categories except day care, which increased from 5.7 to 7.0 percent. In 1971, as in 1969, the types of services most frequently received by AFDC families were those related to employment or work training; obtaining or using medical care; improvement of housing, home, or financial management; and securing support of children. Counseling, guidance, or other diagnostic services related to employment or training for employment moved up from third to first place, with the lowest negative rate of change among the major types of services received. Family planning services,

[2] Because of relatively large caseloads, California and New York submitted samples of one-half of one percent. Pennsylvania submitted a sample of one-half of one percent for Philadelphia only. Massachusetts submitted a sample of eight-tenths of one percent.

[3] The age of most mothers is known, but the age of over 3 in 10 fathers is unknown. Percentages are based upon totals for persons whose ages are known.

[4] The educational attainment is unknown for 2 in 10 mothers and about 6 in 10 fathers. Percentages are based upon total for persons whose education is known.

either with or without medical referral, also moved up into the top group of services received by at least 1 in 4 families in 1971.

15. *More families receiving AFDC have no other source of income.* Families with no money income other than public assistance increased from 54.7 to 59.9 percent. The increase in young families, mentioned above, is reflected in the drop (from 7.8 to 6.1 percent) in families receiving OASDI in addition to AFDC. There was also a decrease in families receiving partial support from the father, either by his earnings (from 3.6 to 2.8 percent) or by his contributions when absent from the home (from 14.3 to 13.4 percent).

16. *The use of food stamps has almost doubled.* Participation in the U.S. Department of Agriculture food stamp program rose from 29.6 to 52.9 percent. There was a corresponding drop in receipt of donated foods, which in 1971 are received by only 1 in 7 AFDC families.

Implications of the changes

There are a number of indications of an enhancement of the prospects of AFDC families being able to move off welfare. The indicators fall into several major groupings:

The indices of a healthy family have gone up. There are fewer incapacitated parents, and more of the fathers who are in the home are able-bodied although unemployed. The considerable increase in the use of food stamps means that many more families now have adequate diets.

The combination of more first-time recipients, decrease in average time on assistance, and in long-term assistance cases, points to a rise in short-term use of AFDC as a means of support during a time of financial need.

The decrease in need for services means that agencies are serving more families who need only financial help and presumably do not have other problems which they themselves cannot resolve.

The employment and training status of family members has improved. More mothers work full time, and WIN referrals and enrollment of family members during a year's time have increased. In addition, services related to employment or training now reach more families than any other type of agency service.

The increase in the educational level of AFDC parents should better their chances in the labor market.

Increases in small families and in young families mean that relatively fewer are encumbered by the economic burden of having several children or the labor market stigma of middle age.

Not all of the changes, however, are favorable.

Currently, when unemployment rates are much higher for persons under 25 than over,[5] the downward shift in parents' age can also mean a lessening of chances in the labor market.

The increase in mothers with no marketable skills and with no work experience, together with the need for more mothers in the home, means an overall increase in AFDC women who face barriers to employment.

The increase in children aged 6–14 who are unsupervised while the mother is working or being trained points out a need for child care which is not being met.

More families have no source of money income other than public assistance. In addition, the rise in parents divorced or separated was accompanied by a decrease in families receiving some contribution from an absent father, one of the principal sources of nonassistance income for those families not wholly dependent upon public assistance.

[5] "The Employment Situation: October 1971," *NEWS*, U.S. Department of Labor, Office of Information, USDL–71–594, November 5, 1971, Table A–6.

PART II. FINANCIAL CIRCUMSTANCES OF AFDC FAMILIES

The following is a brief summary of the major findings in regard to financial circumstances of AFDC families. The summary refers only to the total caseload. Between States, there is considerable variation in amounts for individual financial items. At the beginning of each section a short statement explaining that particular phase of the AFDC budget has been included for readers not familiar with the budgeting process.

REQUIREMENTS

For each AFDC family, a determination is made by the public assistance agency as to the amount of monthly income needed to purchase the goods and services considered necessary for maintaining the State's level of living established for the program. The amount covers all basic and special requirements, except those met through vendor payments for medical care.

The average monthly requirement for all families was $242.34 per family. This is close to the average requirement of $244.48 for families with only one adult recipient, which comprise 77 percent of all AFDC families. The average amount increases, of course, with number of persons in the assistance group, which includes the AFDC children, parent(s), or other needy caretaker, and other persons whose presence has been established as essential to the well-being of the children and whose needs are encompassed in those of the children.

Number of child recipients	Average monthly requirement of families with specified number of adult recipients [1]		
	None	1	2
All families	$132.97	$244.48	$313.75
1	78.38	167.72	224.61
2	132.70	216.53	266.51
3	183.36	261.11	298.17
4	216.86	303.21	339.40
5	286.81	333.16	361.91
6	[2] 301.07	372.48	392.56
7 or more		434.17	466.06

[1] In 9.9 percent of AFDC families there was no adult recipient; in 77.2 percent, 1 adult recipient; in 12.9 percent, 2 adult recipients.

[2] 6 or more child recipients.

NONASSISTANCE INCOME

Before the amount of the AFDC payment is determined, all nonassistance income of the family is taken into account. At the time of the study, 40.5 percent of AFDC families had nonassistance income from one or more sources. The average amount of such income, for families who had some from any source, was $159.41 per family. Earnings of family members and contributions from an absent father were the major sources of nonassistance income, although the average amount from an absent father was smaller than average amounts received from OASDI and unemployment compensation.

FAMILIES WITH NONASSISTANCE INCOME

Source	Percent of all families	Average monthly amount
Earnings of:		
Mother	13.7	$221.25
Father	2.8	244.60
Children	.6	102.72
Earnings or incentive payments from WIN	2.3	59.56
Contributions from absent father	13.4	84.89
OASDI benefits, total	6.1	118.29
Father dead	2.0	135.43
Father incapacitated	2.0	130.97
Other status of father	2.0	88.51
Unemployment compensation	1.0	178.66
Contributions from others in home, and other cash income	4.3	76.86
Income in kind	2.5	28.53

DISREGARDED NONASSISTANCE INCOME

Some or all of the nonassistance income of an AFDC family may be disregarded in the budget process which determines the amount of the AFDC payment. Employment costs and child care were the most common types of deductions from nonassistance income of the 21.2 percent of families who had some income disregarded. The highest average amount was for the support of dependents not in the assistance group.

FAMILIES WITH DISREGARDED NONASSISTANCE INCOME

Type of deduction	Percent of all families	Average monthly amount
Employment costs	15.2	$65.30
Child care while parent works	5.7	65.45
Support of other dependents	1.2	140.96
Other expenses	1.8	66.23
Future identifiable needs of children	.2	(1)
Other [2]	17.0	88.97

[1] Not computed; base too small.

[2] Includes required disregard of all earnings of a child who is a student and, in addition, the 1st $30 of earnings of all other persons in the assistance group plus ⅓ of earnings above that amount.

After deductions, 34.7 percent of AFDC families had some nonassistance income remaining. For these families, the average monthly amount of net nonassistance income was $94.65 per family.

ASSISTANCE INCOME

The average AFDC payment per family was $178.69. The amount of the payment varied by average number of children and also by status of the AFDC father. The highest average payment was for families with an unemployed father, although families with an incapacitated father had the highest average number of children. Both the mother and the father are AFDC recipients in 9 out of 10 families with an unemployed father. Both parents are AFDC recipients in less than 6 in 10 families with an incapacitated father; in the remainder of such families the father himself may be receiving another type of public assistance such as aid to the permanently and totally disabled (APTD) or aid to the blind (AB).

Status of father	Percent of families in status category	Average number of children	Average monthly AFDC payment
Incapacitated	9.8	3.5	$178.61
Unemployed	6.0	3.1	237.69
Absent from home, total	76.3	2.6	178.58
Divorced or legally separated	17.1	2.8	178.67
Separated without court decree	12.9	3.0	195.66
Deserting	15.2	3.0	201.22
Not married to mother	27.7	2.2	160.26
In prison, other reason	3.4	2.3	161.62
Dead	4.3	2.8	132.98
Other status	3.6	2.9	138.45

A relatively small group of families (2.1 percent) received general assistance, that is, State aid without matching federal funds, in addition to their AFDC payments. For such families, the average amount of the

supplementary general assistance payment was $49.91 per family.

TOTAL INCOME

The average amount of total income from all sources, excluding disregarded nonassistance income, was $212.62 per AFDC family.

Number of child recipients	Average monthly income of families with specified number of adult recipients		
	None	1	2
All families	$110.77	$216.22	$269.51
1	67.26	149.62	193.03
2	110.59	192.32	237.68
3	151.85	232.31	259.23
4	182.26	268.98	291.31
5	235.12	290.34	302.88
6	224.13	323.69	333.15
7		374.30	388.70

[1] 6 or more child recipients.

UNMET NEED

Unmet need is the difference between the budgeted requirements for the family and income from all sources, excluding disregarded nonassistance income. At the time of the study, 46 percent of AFDC families had some unmet need, with an average amount per family of $64.60. Readers who wish to make interstate comparisons from the tabulations are requested to read first the paragraph on "recognized unmet need" in Appendix I, Glossary of Selected Terms.

AEC CRACKS DOWN ON OPPONENTS

Mr. GRAVEL. Mr. President, we who try to follow some of the intricate power plays which will determine the nuclear future of this country, owe a lot to the reports in Nucleonics Week. The March 2 issue brought us five particularly significant stories:

First, "Charges of Reprisals Against Staff ECCS Critics Denied by AEC, Idaho."

Second, "AEC's Revised Early-Siting Bill Getting the Finishing Touches This Week."

Third, "Two Kansas Legislature Resolutions Could Spike AEC's Waste Disposal Plan."

Fourth, "AEC Tells ECCS Board to Restrict Scope and Speed Hearing."

Fifth, "Senator William Proxmire Is Unlikely To Conduct an ECCS Probe."

Mr. President, I ask unanimous consent that the five stories be printed in the RECORD.

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

CHARGES OF REPRISALS AGAINST STAFF ECCS CRITICS DENIED BY AEC, IDAHO

The specter of reprisals against AEC staffers who have taken a strong conservative line on emergency core cooling was raised this week with charges from AEC sources that "troublesome" employes in AEC and at its Aerojet Nuclear contractor, National Reactor Testing Station, Idaho, had either been reassigned or would be. Other senior AEC people roundly denied the charges.

The first case is that of Morris Rosen, who was chief of the systems performance branch, Div. of Reactor Standards, until the recent regulatory reorganization in which he was reassigned as technical adviser to the director of the Div. of Reactor Licensing, Peter Morris. Rosen, when reached for comment this week, said of his new job: "You would really have to consider it as a promotion. It makes for broader responsibility." However, he added: "Of course, I am off ECCS—except in an overlook position. I will still be able to keep my thumbs on it."

A high source close to Rosen in the regulatory branch said, however: "It is not as clean as it looks. One has to look at the timing of it [Rosen's reassignment]." This source said that if pressed at the ECCS rulemaking hearing at which Rosen is to testify, the latter would "make statements" about the job change. Rosen himself said that it should be borne in mind that the regulatory reshuffle had been in the works for some time. He said that his position on ECCS—which came to light when AEC released a series of internal memoranda largely authored by himself and Robert Colmar, who used to work for him—had not changed. Rosen (and Colmar) had recommended in one memorandum that there be a 6–12-month moratorium on reactor power increases to provide a "breathing spell" for further understanding of ECCS limitations (NW, 17 Feb, 8). He said: "I believe that the position I have taken is a majority position [of AEC staffers concerned with ECCS]. I do not expect the ECCS hearing to vindicate me. I expect it to confirm my position as a majority one. I do not think it is the dissenting one."

The second case revolves around a proposed reorganization in the Div. of Nuclear Safety Programs at Aerojet Nuclear, where ECCS testing is carried out. That reorganization, according to an AEC source, is designed to shift responsibility for ECCS away from certain individuals. An Aerojet source said: "It is very hard for us to say anything because we feel we are in a fishbowl. If we say something we get flailed by the AEC's Div. of Reactor Development." Specifically, the charge being made about the Aerojet changes is that George Brockett, head of the nuclear safety development branch, is being moved because of his conservative approach to ECCS.

Reached for comment, Brockett said that the reorganization has not taken place but that "under the proposal that I have seen I would have a different responsibility." He said he was not aware of having been the subject of any pressure or coercion. However, he said: "Sure, I guess there are a lot of people in the industry who would like to see me removed." Brockett said his concern on ECCS was not with reactors at present operating, because "they are not big enough and there are not enough of them." He said he thought that more answers are needed on ECCS as "we move along toward bigger reactors nearer population centers. What we are trying to do here is to see that the parachute opens when you jump."

AEC sources in Washington said the proposed Aerojet reorganization "was suddenly rescinded a week ago." Brockett said all he knew was that the proposed reorganization plan was "being evaluated by management." AEC director of regulation L. Manning Muntzing said that he could not speak for Aerojet but that Rosen's reassignment bore no thought of a reprisal, although the timing could be construed to be unfortunate. He said the commission had certain objectives in the reorganization at the time and had decided to go ahead "with what had to be done." Muntzing said: "There was nothing sinister about it."

Another Aerojet source noted that reorganizations had taken place at Idaho over the years in almost all sections of the company except that of nuclear safety. Reorganization of the nuclear safety division had been under discussion since last June but talk of it dried up last month. The source said he had heard the same talk of reprisals against Idaho personnel but had seen no concrete evidence of it. He added: "If AEC does not like the way a man parts his hair, it would be naive to assume that he could not do something about it." A third Aerojet official maintained that the reorganizations of the company over the years had not been at AEC's behest and had nothing to do with employes' attitudes about ECCS.

AEC'S EARLY SITING BILL

AEC's revised early-siting bill was getting the finishing touches this week at the Office of Management & Budget. The bill, which would dramatically reshape the procedure for obtaining an operating license, will probably be sent to Congress next week and will be discussed at a hearing before the Joint Committee on Atomic Energy on March 9. The bill has three main ingredients: 1. early site authorization prior to any construction; 2. an optional legislative-type hearing for the operating license that would be called only if intervenors produce prima facie evidence of new material affecting the public health and safety; 3. provision to aid plants affected by the Quad Cities decision; i.e., interim operation before completion of review under the requirements of the National Environmental Policy Act. Sources said the most significant aspect of the proposed legislation is revision of the operating-license procedures. They said the legislative-type hearing—where intervenors do not have rights of discovery and cross-examination—is intended to enable plants to go on the line as scheduled. The sources said the preliminary draft of the bill would probably be reworked in the OMB but that the basic objectives would be retained.

TWO KANSAS LEGISLATURE RESOLUTIONS

Two Kansas Legislature resolutions could spike AEC's waste-disposal plan in that state if they are passed within the next two weeks—and all indications are that they will be passed. One resolution supports the state governor in urging AEC to look beyond Kansas—and even beyond the continental U.S.—for sites to dispose of high-level radioactive waste. The other resolution would give the governor authority to decide whether the AEC plan is safe or not, and hence whether or not the commission can bury waste in Kansas. "There is little or no opposition to these resolutions in the legislature," said a governor's office official.

AEC, meanwhile, is marking time on the Lyons, Kans., salt mine burial site it had earmarked for a national radwaste repository. It is doing research on rock mechanics, heat-flow, and other generic subjects not necessarily connected to the Lyons site. "It is my understanding that they won't do anything until new funding becomes available in fiscal-1973 [which begins in July]," said one state source.

AEC TELLS ECCS BOARD TO RESTRICT SCOPE AND SPEED HEARING

AEC in effect has told Nathaniel Goodrich and the emergency core cooling rulemaking hearing board that he chairs, to start bearing down on participants and get the hearings on the track they were intended to take. The commission order issued last week also warned the hearing participants—especially the National Intervenors coalition being represented by lawyer Myron Cherry—to start cooperating in getting the hearing focused on the ECCS criteria and stop obstructing the procedure with extraneous matters. The AEC commissioners appeared still to be bending over backward to allow the hearing board to conduct the hearing as it sees fit, and as a reasonably independent unit with some court-like functions. But the AEC order also made it pretty clear that the commissioners don't think well of the ways things have gone thus far. And they made it clear that they expect Goodrich to start showing more of an iron hand within the velvet glove.

However, participants in and observers of

the rulemaking hearing don't think the order will have any noticeable effect. Nuclear industry men and regulatory lawyers consider the order soft and mealy-mouthed ("That's not an order, that's a speech," said one) and from the environmentalist side there were far more derisive, uncomplimentary and unprintable descriptions of it.

Nevertheless, there were some specific indications in the order that the AEC commissioners want more rigid conduct of the hearing. "While the course of the proceeding to date has not diminished the commission's confidence in the basic soundness of the . . . objectives [of direct public participation and enhanced public understanding], it is clear from the present hearing record that their realization in this proceeding requires a measure of additional firm guidance from the commission," the order says in part. It went on to note AEC concern "with the slow pace at which the hearing is moving and with the relative lack of consideration of substantive issues" so far. The order commented on the kind and quality of cross-examination by National Intervenors: "[It] has been in the nature of discovery, has dealt essentially with historical and procedural matters, and appears to lack organization and preparation. That questioning has barely touched on the intrinsic merits of the ECCS criteria which are the subject of this proceeding."

In their order, the commissioners said the technical validity of the criteria, not the history of their formulation, are the subject of the hearing. A "reasonable amount" of examination into the background is all right, the commissioners said, but this has not been the case so far. In effect, the order directs the hearing board to get this into proportion and keep it that way.

As far as the schedule is concerned, the order noted that it had already been upset by "the somewhat oblique approach to the subject matter" in questioning to date and by "the participants' default" of the previously scheduled Feb. 11 filing of their prepared direct testimony. Now the schedule will have to be adjusted, said the commissioners, and they're inclined to some flexibility in that they'll leave this to the hearing board to do, rather than taking it upon themselves. But, said the order, the hearing board and the participants should understand "that the new time periods fixed should not be subject to further adjustment."

The order tells the hearing board to "use its powers firmly to assist the participants in maintaining . focus" on the ECCS criteria and suggests that—in view of the more limited time that they are intended to have—the participants should get together on such things as stipulations of facts. Let them make "the best use of the fixed time available to them for setting forth their respective positions," says the order, for the commissioners certainly "will take note of and give due consideration to the uses made by the participants of their allotted time as indicative of their priorities and perspective." And if someone can't finsh up in his allotted time, he's not to get additional time but, instead, the hearing board can let him put his questions in writing and the board and commissioners can then decide whether further exploration in those areas is desirable.

PROXMIRE UNLIKELY TO CONDUCT ECCS PROBE

Sen. William Proxmire is unlikely to conduct an ECCS probe suggested by National Intervenors, the umbrella group of environmental organizations involved in the AEC rulemaking hearing on emergency core cooling. In a press conference last week, the group called for a "thorough investigation by an unbiased congressional committee" and suggested that the Joint Economic Committee chaired by Proxmire (D-Wis.) would be an appropriate body. Proxmire had been approached on this by National Intervenors but told the group that he has too many other things to do for him to get to ECCS for some time. "It's a question that would take a fairly low priority," commented a Proxmire aide. "He has said, 'Let me think about it.' He is very interested in nuclear safety but other things are presently more pressing."

A National Intervenors statement at the press conference cited internal memoranda written by AEC staffers Morris Rosen and Robert Colmar that present AEC criteria on emergency core cooling are inadequate. The statement went on to say: "We believe that this dissenting opinion by the AEC's own experts has been suppressed by Stephen Hanauer, head of the AEC task force appointed to investigate the problem. . . . We are convinced by reliable informants within the AEC that chairman [James] Schlesinger and other commissioners are unaware that many more AEC experts are uncertain whether the present criteria are safe enough."

The group suggested the Joint Economic Committee for the probe it wants because "of the tremendous financial loss that the industry will face, not to mention the economic hardship of those being made dependent upon nuclear-generated electricity, should the present plants be ruled unsafe."

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

ORDER FOR RECOGNITION OF SENATOR ROTH TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, immediately following the recognition of the two leaders under the standing order, the distinguished Senator from Delaware (Mr. ROTH) be recognized for not to exceed 15 minutes.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND LAYING UNFINISHED BUSINESS BEFORE SENATE TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, following the remarks of the distinguished Senator from Delaware (Mr. ROTH) on tomorrow, there 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 Chair lay before the Senate the unfinished business.

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

ORDER FOR RECOGNITION OF SENATOR WEICKER ON FRIDAY, MARCH 24, 1972

Mr. BYRD of West Virginia. Mr. President. I ask unanimous consent that on Friday next, after the two leaders have been recognized under the standing order, the distinguished Senator from Connecticut (Mr. WEICKER) be recognized for not to exceed 15 minutes.

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

ORDER FOR ADJOURNMENT UNTIL TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. tomorrow.

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

(Later in the day this order was modified to provide for the Senate to convene at 9:30 a.m. tomorrow.)

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

EQUAL RIGHTS FOR MEN AND WOMEN

The PRESIDING OFFICER (Mr. CHILES). Under the previous order, the Chair lays before the Senate the unfinished business, which the clerk will state.

The assistant legislative clerk read as follows:

H.J. Res. 208. A joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time for the quorum call not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1058

Mr. ERVIN. Mr. President, I call up Amendment No. 1058 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment as follows:

On page 1, line 12, after the period insert the following: "This article shall not apply to any law prohibiting sexual activity between persons of the same sex or the marriage of persons of the same sex.".

On page 2, line 3, strike "amendment" and insert "article".

Mr. ERVIN. Mr. President, the Wall Street Journal for August 13, 1970, published an editorial entitled "The Ladies and the Constitution." I read that editorial:

That Constitutional Amendment liberating women broke on the public consciousness

so quickly no one's quite sure what its real effect would be.

"Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex," is what it says. Sounds fine, at least until the lawyers and courts get at it, but it's been languishing in Congress since 1923. Lately Congressman Celler, who's against it, has kept it bottled up without even committee hearings. But when Congresswoman Griffiths strong-armed it out on the floor with a discharge petition, it whizzed through the House by 346 to 15.

The upshot is that it was passed with only an hour of debate, which wasn't exactly time enough to clear up all the little hazy areas. Everyone seems to think it would finally implement that unassailable principle that women ought to get the same pay as men for the same work, but someone ought to take time to notice the words do not mention private employers. We were assured that it wouldn't affect such things as maternity benefits or rape laws, somehow. And what with a volunteer army almost here we don't need to worry about its implications for the draft.

Well, we're all for the ladies, but even so, before we write some new words into the Constitution it'd be nice to know what they really do mean.

Frankly, Mr. President, I do not know what the ERA means in one aspect. Therefore, I have offered the following amendment which would amend the joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women, as follows:

On page 1, line 12, after the period insert the following: "This article shall not apply to any law prohibiting sexual activity between persons of the same sex or the marriage of persons of the same sex.".

Now, Mr. President, the idea that this law would legalize sexual activities between persons of the same sex or the marriage of persons of the same sex did not originate with me. I do not know what effect the amendment will have on laws which make homosexuality a crime or on laws which restrict the right of a man to marry another man or the right of a woman to marry a woman or which restricts the right of a woman to marry a man. But there are some very knowledgeable persons in the field of constitutional law, such as Prof. Paul Freund of Harvard Law School, Prof. James White of the Michigan Law School, and Prof. Thomas Emerson of Yale Law School, who take the position that if the equal rights amendment becomes law, it will invalidate laws prohibiting homosexuality and laws which permit marriages between men and women.

The constitutional amendment which the Senator from Indiana is proposing states 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.

Professor Freund of the Harvard Law School and Professor White of the University of Michigan Law School have reasoned that the ERA will mean that activities which are permitted between members of different sexes cannot be the basis of criminal prosecution against members of the same sex. Thus, State criminal laws relating to sexual conduct between members of the same sex will be unconstitutional under the ERA because it denies them equality of rights because of their sex. Marriage laws, in the same way under the ERA, could not be restricted to members of different sexes. In other words, the professors reason that laws and activities which are allowed to members of different sexes will have to be extended to members of the same sex or they will be denied their "equality of rights" . . . on account of their sex, as the ERA states.

In the hearings before the Senate Judiciary Committee last year, Prof. James White of the Michigan Law School mentioned these bizarre results which would flow from passage of the ERA. Professor White said:

With the exception of Illinois and perhaps a few other states, there are laws on the books which make it a crime to engage in certain kinds of homosexual activity. First of all, I suppose the amendment would bring in question all that law . . . I think the question is, is this the way we should do away with it or should we allow the states to control this themselves?

Prof. Paul Freund of the Harvard Law School also testified during the Judiciary Committee hearings that:

Indeed, if the law must be as undiscriminating concerning sex as it is toward race, it would follow that laws outlawing wedlock between members of the same sex would be as invalid as laws forbidding miscegenation. Whether the proponents of the amendment shrink from these implications is not clear.

Prof. Thomas Emerson of the Yale Law School mentioned in an article in the Yale Law Journal that:

Courts will most likely invalidate sodomy or adultery laws that contain sex discriminatory provisions, instead of solving the constitutional problems by extending them to cover men and women alike.

I do not agree with these results and frankly I do not feel the Members of the Senate intend the results which Professor Freund of the Harvard Law School, Professor White of the Michigan Law School, and Professor Emerson of the Yale Law School say will flow from the passage of the ERA regarding homosexual activity.

Mr. BAYH. Mr. President, will the Senator from North Carolina yield to me for a question, please?

Mr. ERVIN. I will be glad to yield to the Senator from Indiana for a question.

Mr. BAYH. That is exactly what I wanted to ask the Senator, and I appreciate his courtesy. I have not had a chance to give a great deal of lengthy study to homosexuality, but I would ask the Senator, is homosexuality limited to men or to women?

Mr. ERVIN. Some forms of it are and some are not. But if there is a problem here, as these legal scholars say, perhaps the Senator's Constitutional Amendments Subcommittee should study the subject before we pass a constitutional amendment which legal scholars say could effect this area of the law.

Mr. BAYH. Is homosexuality limited to men or to women? In other words, if a State legislature says it is against the law——

Mr. ERVIN. They make a distinction. Unlike this amendment, the phraseology relating to that matter does make a distinction between men and women, as a rule. It applies the term "homosexuality" to abnormal sexual activities between men——

Mr. BAYH. But, is this——

Mr. ERVIN (continuing). And sometimes to abnormal sexual activities between women.

Mr. BAYH. How is this term defined by the statutes which concern the Senator from North Carolina? I ask this question not to get involved in anything that might be embarrassing, but we do have to be specific here.

Mr. ERVIN. The Senator from Indiana is asking a question, but the Senator from North Carolina would not have the time, if he had the learning, to explain to the Senator from Indiana what the laws of the 50 States have to say on the subject. But, I will tell the Senator what some very smart constitutional lawyers, including Prof. Paul Feund of Harvard, Prof. James White of Michigan Law School, and Prof. Thomas Emerson of Yale Law School, have had to say about the effect of this amendment in the general field of sexual activity and marriage relations.

Mr. BAYH. The Senator has been kind to permit me to ask the question which he has not yet answered.

Mr. ERVIN. I profess my inability to educate the distinguished Senator from Indiana on the phraseology of all the laws of the 50 States which make homosexuality a crime, but they are multitudinous, and perhaps there should be a subcommittee study of them before the Senate acts.

Mr. BAYH. The Senator from Indiana would——

Mr. ERVIN. If the Senator will remember his Bible, he will recollect that sodomy was practiced in Nineveh and that was the reason Nineveh was wiped from the face of the earth.

Mr. BAYH. Let me suggest that the argument the Senator proposes at this point might have been relevant at the time of Nineveh, but it does not seem relevant today. I refer to the original question the Senator from North Carolina was considerate enough to accept from the Senator from Indiana. That, I do not think, has been answered. I think it is possible to make a real distinction between the sexuality of a man or woman and various acts they practice. There are, of course, very real physical differences between men and women.

Mr. ERVIN. But the act says that there are not.

Mr. BAYH. Mr. President, I asked the Senator——

Mr. ERVIN. The Senator is not now propounding a question.

Mr. BAYH. Yes I am. I am now trying to redefine it so that the Senator might finally answer it. He has not yet answered. I asked the question whether the word "homosexualty," or act of homosexuality, or statutes prohibiting homosexuality are confined to men or women.

Mr. ERVIN. It depends on the phraseology of the statute.

Mr. BAYH. I wish the Senator would describe a homosexual act.

Mr. ERVIN. I am not going to de-

scribe homosexual acts on the floor of the Senate.

Mr. BAYH. The Senator from Indiana did not want to embarrass anyone. However, I am trying to get at the different definitions of homosexuality. The Senator described various capacities that men or women have.

Mr. ERVIN. The Yale Review article by a great student of constitutional law, Thomas Emerson, who Senator BAYH has deemed a great legal scholar, says that this constitutional amendment would invalidate every statute which makes homosexuality or lesbian activity dependent on the sex of the participant.

Mr. BAYH. Would it be possible for a State legislature, after the passage of this amendment, to enact a statute saying that it shall be unlawful under the laws and statutes of State X to participate in any type of homosexuality whatsoever, p-e-r-i-o-d?

Mr. ERVIN. If the Senator had studied a little anatomy as well as a little law, he would find that there are some offenses which go under the general term of homosexuality which only men can commit. And that is true with respect to discrimination against sex being wiped out. This act of sexuality would be made lawful instead of unlawful under the amendment and I am against this result.

Mr. BAYH. Mr. President, we have time, and I would like to get the Senator's opinion. If he does not want to give it, that is all right. However, he has significant constitutional expertise. We might differ as to the wording of different statutes. However, the question I propound is whether it would be possible for such a State statute to be enacted. The Senator from Indiana is not an expert on anatomy. However, he is an expert on his own anatomy.

Mr. ERVIN. That ought to be enough to apprise the Senator from Indiana with the fact that there are certain acts of homosexuality that only men can commit.

Mr. BAYH. I have read about it. However, I have not had any expertise in that area.

Mr. ERVIN. I am not implying that the Senator had and neither have I.

The PRESIDING OFFICER (Mr. GAMBRELL). The Senators will suspend until the galleries come to order. There will be no demonstrations in the gallery with reference to what is taking place on the floor.

Mr. ERVIN. This is on my time, and I prefer to speak on my time. Let the Senator from Indiana speak on his time.

Mr. BAYH. Mr. President, may I yield myself 2 minutes?

Mr. ERVIN. No; I have the floor. The Senator from Indiana can have the floor after I have had a chance to speak. I do not mind the questions, but I do mind being heckled.

Mr. BAYH. Was the Senator from North Carolina being heckled?

Mr. ERVIN. Yes; the Senator from Indiana is heckling the Senator from North Carolina and trying to impede the Senator from North Carolina in his effort to explain the thoughts of Professor Freund of Harvard, Professor White of Michigan Law School and Professor Emerson of the Yale Law School who say that laws dealing with homosexual activity will be unconstitutional after passage of this amendment.

Mr. BAYH. Would the Senator from North Carolina permit me to strike my questions from the RECORD?

The PRESIDING OFFICER. Will the Senator from North Carolina yield to the Senator from Indiana? The Senator from North Carolina has the floor.

Mr. ERVIN. No; I do not yield.

Mr. BAYH. May I ask unanimous consent?

Mr. ERVIN. I do not yield for that purpose.

The PRESIDING OFFICER. The Senator from North Carolina has declined to yield, and the Senator from North Carolina has the floor.

Mr. BAYH. May I propound a parliamentary inquiry?

The PRESIDING OFFICER. Will the Senator from North Carolina yield for a parliamentary inquiry?

Mr. BAYH. Is not a parliamentary inquiry appropriate at any time? I merely want to find a way to remove whatever remarks I made that might cause my good friend to think that I was heckling him.

The PRESIDING OFFICER. The Chair has ruled that the Senator from North Carolina has the floor. No parliamentary inquiry may be made without the permission of the Senator from North Carolina.

Mr. BAYH. Will the Senator from North Carolina permit me to make a parliamentary inquiry?

Mr. ERVIN. I do not know why the Senator from Indiana wants to heckle the Senator from North Carolina and prevent the Senator from North Carolina from telling the Senate what these legal scholars think.

Mr. BAYH. The Senator knows that is not the intention of the Senator from Indiana.

Mr. ERVIN. The Senator from Indiana will not permit the Senator from North Carolina——and I hate to say it, but the truth compels me to say so—— to proceed for a minute without an interruption. And when the Senator from North Carolina yields for a question, the Senator from Indiana makes a speech on the time of the Senator from North Carolina.

If the Senator from Indiana thinks that the Senator from North Carolina ought not to be permitted to express his views on this matter uninterruptedly, the Senator from Indiana can continue to engage in this heckling. But the Senator from North Carolina, in order that he not be impeded too much and in order that he may be privileged to resume this discussion at a time when the Senator from Indiana and the Senator from North Carolina will have had an opportunity to read the statutes of some of the States, the Senator from North Carolina will temporarily withdraw the amendment.

Before withdrawing the amendment, I would like to say that President Nixon appointed an extremely able women, Mrs. Rita Hauser, who is a very fine lawyer, as one of America's representatives to the United Nations.

Mrs. Hauser made a speech at the American Bar Association, I believe, on the subject of human rights, in which she made some reference to the proposed equal rights amendment. She said this:

> Military service is another area which will be affected by the proposed Amendment. If enacted and we continue to have Selective Service, then women will be subject to the draft. I for one have never seen any reason whatsoever to exempt women from serving their country as men do. I think that women should be judged in the same way as men. Some men make soldiers and others don't. Some bang at the typewriters and some do bandage work and similarly women will be judged on their capabilities for being soldiers or otherwise and not on the basis of sex. Now, this may be an aspect that some women do not like and would not wish to see materialize, but I can personally see no justification legally or factually for excluding women from serving their country in the same way as men have been compelled to do. The Amendment would end that exclusion.

Then, after further discussion of other matters she stated:

> Even more so, and perhaps I am radical in this view, I believe that the whole area of laws dealing with sexual relations will be altered by adoption of the Amendment.
>
> Distinction in law on a basis of sex would, it appears, no longer be possible under the terms of the proposed Equal Rights Amendment. Therefore, it would follow that many provisions of criminal law would be altered to the extent they provide for different treatment and punishment of men and women.
>
> I also believe that the proposed Amendment, if adopted, would void the legal requirement or practice of the states' limiting marriage, which is a legal right, to partners of different sexes.

And so, we have one of President Nixon's high appointees saying that all laws dealing with homosexuality will be affected by the ERA.

Mr. President, I believe the Senate should know what it is doing in this regard, so I call attention, once again, to the testimony of Prof. James White of the Michigan Law School on the effects of the equal rights amendment. Professor White said:

> With the exception of Illinois and perhaps a few other states, there are laws on the books which make it a crime to engage in certain kinds of homosexual activity. First of all, I suppose the amendment would bring in question all that law . . . I think the question is, is this the way we should do away with it or should we allow the states to control this themselves?

Then, Professor White, of the Michigan Law School, amplified these remarks on pages 200 and 201 of his testimony with respect to this amendment.

> As a final point, and I think an appropriately bizarre one, let me talk about homosexual behavior and how the behavior might affect homosexual behavior.
>
> With the exception of Illinois and perhaps a few other States, there are laws on the books which make it a crime to engage in certain kinds of homosexual activity. First of all, I suppose the amendment would bring in question all that law. Personally, I guess I would favor doing away with that law, at least as it involves consenting adults. But again, I think the question is, is this the way we should do away with it, or should we allow the States to control this themselves?
>
> But the more interesting problem is raised by what is going on now in California where, as you may know, there is a Pro-

testant minister who purports to marry members of the same sex. They go through a marriage ceremony. And he is a man with the capacity to marry a man and a woman.

Let's take as an example, assume, as he is going now, he performs a marriage ceremony between two men, one of whom, let's say, is a movie star, makes a lot of money. They live together as man and wife for 4 years, during which the movie star makes several million dollars. Then they break up and the one who was performing the wifely function comes to court and he says we were married. This is a community property State and I want my half of the income which you earned in the 4 years of our marriage. A woman could claim that half and I have a right to claim that half.

Well, I think this is a pretty bizarre kind of thing, probably not a very, not of crucial importance in connection with the amendment, but it is an example of the kinds of areas to which the amendment might reach and where there will certainly be litigation. I mean, these people are going through marriage ceremonies now. They are looking for every way to test the marriage laws of California. And, surely, it will be tested on this basis and conceivably a court would find that the State had to authorize marriage and recognize marital legal rights between members of the same sex.

Mr. President, to be sure that the Senate understands this let us look again at what another distinguished American lawyer had something to say on this subject. As I have said, Prof. Paul Freund of the Harvard Law School testified before the Committee on the Judiciary. He is one of the most distinguished constitutional lawyers in America and Professor Freund of the Harvard Law School stated:

The strict model of racial equality, moreover, would require that there be no segregation of the sexes in prisons, reform schools, public restrooms, and other public facilities. Indeed, if the law must be as undiscriminating concerning sex as it is toward race, it would follow that laws outlawing wedlock between members of the same sex would be as invalid as laws forbidding miscegenation. Whether the proponents of the amendment shrink from these implications is not clear.

Like Professor Freund, I wonder if the Senators who support this amendment shrink from these implications.

Mr. President, in order to afford myself and the distinguished Senator from Indiana time to read some of the State statutes I withdraw this amendment for the time being.

The PRESIDING OFFICER (Mr. GAMBRELL). The amendment is withdrawn.

AMENDMENT NO. 1065

Mr. ERVIN. Mr. President, I call up Amendment No. 1065.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the end of section 1 add the following sentence:

This article shall not impair, however, the validity of any laws of the United States or any State which exempts women from compulsory military service.

Mr. ERVIN. Mr. President, I yield to the distinguished Chairman of the Committee on Armed Services, who is as knowledgeable a man as this country has on the subject of recruitment of personnel for our Armed Forces, for such time as he may desire to use on the amendment.

Mr. STENNIS. I thank the Senator from North Carolina very much.

Mr. President, will the Chair call to my attention when 20 minutes have expired?

The PRESIDING OFFICER. The Senator will be recognized for 20 minutes.

Mr. STENNIS. The real effect of the women's rights resolution, Mr. President, is a very serious proposed constitutional amendment and it proposes a very grave question from the standpoint of national security as well as the treatment of womanhood.

First, I want to address myself briefly to the overall import of the proposed resolution.

The resolution purports to be a fair and evenhanded measure giving the women of this Nation equal legal rights, and if it were, it would be something that every Member of the Congress could readily accept and cosponsor. In past years I have cosponsored amendments requiring equal rights for women myself. But, Mr. President, the joint resolution now before us needs the changes proposed by the Senator from North Carolina, and without them its effect will almost certainly be very harmful to the stability and fairness of our laws and to the very fabric of our social system. I am prepared to vote for any bill or constitutional amendment which would really give equal rights to the women of this country and always have been but the resolution now before us, as it will probably be interpreted by the courts, has far more bad effects on both men and women than it has good.

It is my firm belief that the overwhelming majority of women in this country seek equality of the sexes under the law and not absolute sameness. The basic concern which most women have expressed to me about this resolution is its effect on the right of women to receive equal pay for equal work and to have equal job opportunities with men. In studying this problem over the past few years it has become clear to me that women in this country generally do not receive jobs or pay on a par with men. This situation continues to exist in spite of numerous laws on the books requiring equal treatment of all persons in this country, including: The 14th amendment to the United States Constitution, assuring equal protection of the laws to all persons; the Fair Labor Standards Act of 1938, with its 1966 amendments pertaining to women; the Equal Pay Act of 1963, explicitly requiring equal pay for equal work regardless of sex; Title VII of the 1964 Civil Rights Act specifically prohibiting employment discrimination based on sex; and numerous executive orders of Presidents Kennedy, Johnson, and Nixon.

In light of this large body of Federal law already abolishing employment discrimination against women, which so far has not been effectively enforced, it is clear that the need is not for further laws or constitutional amendments, but for solid enforcement of the laws already on the books. What we in Congress must not do is merely appear to favor the legal rights of women by voting for this resolution in this election year when its actual effect will be to destroy many useful laws favoring women which most men and women would wish to see preserved.

There is the key to the major part of the argument, I think, about this matter and resolution.

Although I feel sure that this resolution is offered in good faith and with high hopes that it will actually benefit the women of this Nation, I deeply fear that its actual effects will do much harm and little good for our country and for the women of our country. That is why I am speaking out in favor of the amendments to the resolution offered by Senator ERVIN. If those amendments are added to the present resolution, I will gladly support it.

As I see it, Mr. President, the basic flaw of the resolution as it now stands is that it legislates and requires absolute sameness as to men and women rather than legal equality. Only Senator ERVIN'S amendments exempting women from the military draft and allowing legal distinctions between men and women based on physiological and functional differences can cure the defects of the resolution.

I would like to explain, with some specific examples from the laws of Congress and of my own State, what would be some of the negative effects of this resolution if it were enacted into law.

I know that each Senator has heard or read some of the objections which have been raised against this resolution as it now stands, but unfortunately there seems to be a kind of apathy about it, bred perhaps by a fear of appearing to oppose equal rights for women. I strongly urge every Senator to seriously consider the adverse effects of adopting this resolution without the Ervin amendments.

Under the resolution as it now stands no man in the United States could be drafted into the Army unless women were equally subject to the draft. The only way we could continue a military draft to provide for the defense of our country and to meet our treaty commitments would be to draft young women on exactly the same basis as men. How many Senators would want to see the young women of this country, many of them the mothers of small children, living in barracks, wearing combat boots, carrying M–16 rifles and hand grenades, driving tanks, going through boot camp and being taken prisoner in the jungles of Vietnam. Mr. President, if we adopt the resolution without amendment, that is what it will require, because the U.S. Army would not be allowed to exclude women from combat or other hazardous duty on the basis of sex, since that would discriminate against men, and the present resolution requires absolute sameness of treatment regardless of sex.

That might be a point that has been overlooked to a large degree. This amendment, as drawn, requires absolute sameness, and that means that unless we do draft women and put them in hazardous service where they are physically able, then the man or men drafted into the Army could absolutely put a stop to all draft calls, as far as they were concerned, on a claim, which could reasonably be interpreted as valid, that the men were

being discriminated against, that they were not being treated in the same way, that they were being drafted and were being put in these hazardous places because they were men, and to that extent this amendment was being violated.

I do not think there is any duobt about the seriousness of that claim, and we had a complete and extended debate here last summer in which every conceivable phase of the application of the law that was finally passed, for a 2-year period at least, was considered, and every Senator already is familiar with the problems that go with the enforcement of that legislation. The final decision of the Congress was that it was necessary to have a military draft, and that we were going to try to carry along with it a volunteer system, at least on a trial basis.

Now we are trying this voluntary system and proceeding as rapidly as reasonably possible, with very close care being given, though, to getting the quality men, the quality personnel that can fill all these assignments, hazardous or not. It is a vrey serious experiment, very difficult to carry out, and the results are far from known.

My opinion is that we will have to continue the draft in some form for a considerable number of years to come. So we will be back here next year in all probability, for renewal in some form of the draft act. If we adopt the present women's rights resolution now, it will be hanging fire before the country, and there will be a question as to whether or not it will be adopted, and there will be great doubt, confusion, and even chaos as to just what this resolution means with reference to forced military service by women in this country.

I wish to emphasize that I do not for a moment doubt the courage or dedication of the women of this country who have served so unselfishly both in uniform and as civilians during past wars and now in Vietnam, and I remind those women who have served and now serve in the WAC's and WAVE's that those forces would also be effectively abolished by the proposed resolution.

Every Senator who seriously considers the picture of our young women being taken prisoner in combat will know that we could not and will not subject them to military service on the same basis as men. It is unthinkable. Since the present resolution would require sameness of treatment of men and women under the draft law and in the military generally, the obvious effect of adopting the resolution would be to abolish indirectly the draft, little more than a year after the Senate adopted the draft bill following lengthy debate. Although I recognize and share the current feelings of concern about the war in Vietnam, the way to deal with military problems is by full debate on military bills, as I have urged, and not by the back-door method of a measure purporting to grant equal rights to women. The Senate should remember that this resolution, unamended, would be in effect not only until the end of the war in Vietnam, but forever, and could seriously affect and impair the operation of our Army in operating efficiently to defend our own country. I strongly object to such an illogical and unreasoned result.

The organizations, with our military, have rendered tremendous service and have filled in and carried out in a fine way some of the bravest and most highly important assignments to be found anywhere in the military. There is no question about their dedication, but this is a question here of sameness and the treatment of the sexes alike, and in trying to get apparent equality we are going to destroy, I think, our ability to deal effectively with the men in our armed forces which is absolutely essential to carrying out military assignments.

Mr. President, I have another thing in mind. I have visited in countries where I saw gangs of women laborers out there in the street with pick and shovel, repairing the streets, with blacktop, hot, boiling, creosote material, laboring hour upon hour. With all deference to those countries, we do not have anything like that in mind for our womanhood. We do not want that. We want the very opposite, and it is in the opposite direction, as pointed out by State laws, that we have been traveling for many years and decades now. This amendment in its present form would wipe out those laws at the State level and at the Federal level. This is traveling in exactly the opposite direction from what we have been doing as a matter of policy and as a matter of legal requirement both in industry and at other levels, for many, many decades.

I do not have to picture our young women being taken prisoners in combat and going into the unthinkable consequences of those situations. It is possible perhaps even now that some could be captured in performing some of their very fine present services, but that is a wholly different situation and on a far smaller scale from what we would have here if the proposal now before us should be adopted without the Ervin amendments.

The only fair, sensible, and practical answer to this dilemma is to amend the resolution by clearly exempting women from the draft, and permitting legal distinctions between men and women under the resolution, based on recognized physiological and functional differences such as would certainly affect their fitness for combat service in the military. As I say, that is the only sane and sensible approach to this matter. I think we are going off chasing a theory, and we would bring great difficulty, chaos, and bitter disappointment to the womanhood of this Nation, who have had their expectations raised so high with respect to this resolution.

The unamended resolution would also require women to serve in the National Guard of each State on the same basis as men. In Mississippi the State constitution, article 8, section 214, makes all males aged 18 to 45 subject to State military duty; so does section 8519 of the Mississippi Code. Both these provisions, approved by the people of our State, would be abolished if the present resolution becomes an effective constitutional amendment, and the people of Mississippi, even if they opposed the constitutional amendment, would be forced to either disband the National Guard or make women subject to the same military service duties as men.

A similar area in which valid laws of my State would be abolished and voided is that of police duty. Under Mississippi Code, section 8079 hazardous duty with the Mississippi Highway Patrol is limited to men. This provision also would be rendered null and void by the present resolution.

Another vital area in which the proposed resolution would have serious bad effects is the area of laws regulating hours and working conditions of women. The sponsors of the resolution have contended that rather than allow these protections for our women workers to be struck down as unconstitutional, the State legislatures would need only to enact the same protective laws for men. No labor union official or labor lawyer would ever agree that this could be done. Laws protecting women from excessively long hours under unsanitary and dangerous conditions were enacted only after years of struggle in the State legislatures of this country. Extension of such protective legislation to men is highly unlikely, as Myra Wolfgang, vice president of the Hotel and Restaurant Employees International Union of the AFL–CIO testified before the Senate Judiciary Committee. In an honest attempt to aid and assist women in gaining equal rights, we must not foolishly throw away most of the valuable legislation protecting women from dangerous working conditions and excessively long working hours which they won after years of struggle.

As I say, the trend, the fight, has all been in that direction, and it has been a long, hard row to hoe. Now to sweep those achievements away here, with a gesture, through a resolution which I respectfully say has not been fully considered from a practical point of view, is unthinkable to me.

It is important to note that almost the only women seeking to abolish these protective laws are those in executive and managerial positions who contend that laws against required overtime for women prevent them from attaining job advancement equal to men, since the higher management jobs generally require extremely long hours and total commitment of time and energy.

Let me say, Mr. President, that I respect very highly the ability of the millions of women in this country who have penetrating minds and vision and understanding, and are in a position to apply them to their work and devote themselves primarily to those functions. No Member of this body has benefited more in that respect in his official duties here than I. It has been my good fortune to have the assistance of several young women of this quality. Since I have become chairman of the Armed Services Committee, we have had lady employees engaged in important research work, for example, that is proving highly valuable, and I have found that they have good judgment. I mention those things just to show that I am not, on the basis of some persosal belief or theory, opposed to clearing the way up or the way to responsibility for women. I think it should be encouraged. But there is no such thing

as absolute sameness anyway, with the physical, and most significant, the psychological differences, the nervous systems and everything that go to make up the better species of the human race, the female. There is no such thing as absolute equality between things that are so different as the sexes, and the sameness that is attempted to be legislated here is therefore unrealistic and contrary to all the laws of nature.

The AFL–CIO representative before the Judiciary Committee, Mrs. Wolfgang, testified that the Equal Employment Opportunity Commission is now enforcing the requirement of the 1964 Civil Rights Act that women workers seeking overtime be allowed to work overtime on the same basis as men, any State laws to the contrary notwithstanding. Thus it appears that a remedy already exists and is open to women who feel they have been denied equal opportunity for overtime work.

Someone here in the Senate should speak on behalf of the millions of women working in factories and shops throughout this Nation and their continuing need for protective labor legislation. They are the ones whose rights would be most severely impaired if all State laws protecting women from long hours, coerced overtime, heavy lifting, and dangerous working conditions were abolished.

Taking the laws of my own State as an example, numerous such statutes would be held void and unenforceable, including: section 6978, requiring special State inspections of all factories and canneries in which women work; section 6986, regulating the hours which women may be required to work in any mill, cannery, workshop, factory or manufacturing establishment. Neither this law nor any other Mississippi law prevents women workers in Mississippi who have so-called white collar positions, and who wish to work overtime, from doing so, but adoption of the present resolution would automatically abolish all State and Federal legislation protecting women who do physical labor in the mills and factories of this Nation, which is unreasonable and unconscionable, and the Senate must not allow it. We may do much evil in trying to do a little good.

A third area of the present law which would be substantially affected by the pending resolution is separation of the sexes in certain situations. Taking Mississippi laws as an example, the State constitutional provision, article 8, section 213–A, and statutory provision, Mississippi Code section 6710, which provide for a separate State college for women, who wish to attend it, would be abolished, and all women students would be forced to attend a school with men whether they wished to or not. I would also point out that enrollments at other State institutions in my State are totally without regard to sex, and that no State institution is limited to men or predominantly male. I might say, Mr. President, that in my State we have the privilege of having the first State college ever established by law exclusively for women. The academic and educational virtues of separating the sexes voluntarily are well known and I shall not elaborate on them here other than to deplore the dictating and regimentation of a society which abolishes and denies separate education for women who wish it.

The Senate recently passed, as part of S. 659, the Higher Education Act, a measure requiring equal educational opportunities for women and forbidding any discrimination in admissions practices. Attached to that bill was an amendment specifically approving continuation of certain already established schools limited to men or women, which the present resolution would abolish almost before the ink was dry on the education bill approving them. That the Senate should pass such contradictory provisions, back-to-back, is absurd, and illustrates the lack of thought and unnecessary haste with which the present resolution has been allowed to proceed.

By analogy, Mr. President, I also ask whether Federal and State tax exemptions to religious institutions which require separation of the sexes, as with priests and nuns, would be constitutional under the proposed resolution? It seems to me that those tax exemptions could no longer be allowed.

As for other examples of separation of the sexes which would be held unconstitutional under the present resolution I mention: Mississippi Code sections 3374–135, 4259, and 7913, which require separate accommodations for men and women in State prisons, jails and penal farms, and section 1762–07, requiring separate accommodations for women jurors.

Although some have argued that courts would still allow separate rest rooms based on the right to privacy, that right is a relatively new one in terms of constitutional theory, and is not explicitly spelled out in the Constitution at all. I cite this as an illustration that the idea of absolute sameness is just not practical for the sexes under the plan of nature and the plan of God. There is little evidence that the so-called right of privacy would prevail over the specific language of this equal rights resolution.

Returning to consideration of the effect on laws of my own State, other useful and reasonable provisions of Mississippi law which would also be abolished by the present resolution are: section 2559, prohibiting the execution of a female convict while pregnant; section 24, allowing an action at law by a wife to recover her husband's gambling losses; and sections 3487, 3652, 7446, 7462, and 7529 which establish pensions for the widows of policemen, firemen, soldiers, State employees, and others. None of the foregoing laws could be upheld and the benefits they were intended to bestow on loyal wives and mothers would be swept away by the folly of Congress in adopting an ill-considered resolution thinking it was giving rights to women when it was actually taking them away.

Mr. President, there is only one other area of our law about which I wish to speak on the bad effects of the present resolution, and that is the law controlling families, and the relations of husbands and wives, mothers and fathers, parents and children.

I warn all Senators now that if they have not checked the laws of their States on these subjects and others, it is highly important that they do so; because when the provisions that would be swept away or could be swept away by the passage of this resolution are collected, Senators will be appalled. I know that many of the States have most of the laws I have already mentioned, with some variations, and I know that all the States have many laws within this general field. Nearly every law regulating family relationships would be affected by this resolution, including marriage, and the dissolution thereof, custody and support of children, age for marriage, alimony, and so forth. Family life is the basis of our society and any proposal before Congress promising to change it as drastically as this resolution does should be considered with great care and caution and should not be voted on with the unseemly haste which has dominated consideration both here in the Senate and in the House, and I urge my fellow Senators to pause before rushing in to change the fabric of our society in such deep and lasting ways.

Mr. President, we know by experience how the people are concerned and aroused when we dip into the family life, the community life, the school life, the religious life, and all the things that make up the basic principles of our great society which, thank God, is based primarily upon family, and family life.

So I urge a warning to stop, look, and listen, to weigh not the effects of this resolution in some election and not the effects of this resolution as to how it may be interpreted by some group, but how it is going to affect and change the vital elements, the basic foundations of our society, which needs strengthening and fortifying and support in its basic principles, instead of weakening by trying to pass a law that would sound good as a matter of language and that seems to be innocent, but which cuts at the very bases of our society.

These differences between men and women that are so fundamental cannot be legislated away. We cannot ignore these differences, and we cannot change these differences through legislation.

There are fundamental, primordial differences between men and women which cannot be legislated away, and if we voted to force ourselves by law to ignore our differences, we would be doing a terrible disservice to all the men and women of America.

Must life insurance rates be as high for women as for men even though women live longer? Must young women wait until the same age as young men to reach their majority even though women mature faster physically and therefore emotionally?

The only reasonable action now open to the Senate which would accomplish the purpose of insuring equal rights to the women of our country is to adopt the amendments to the present resolution offered by Senator ERVIN, exempting women from the military draft and recognizing for legal purposes the basic physiological and functional differences between men and women in determining

whether laws requiring different treatment of men and women are unfairly discriminatory or simply a reasonable recognition of our natural and abiding differences.

I think that whenever any society or any government fails to recognize these natural and abiding differences between men and women, that nation and its system of laws is on the way to decay and decadence, because there are no other structures of society upon which to build an effective government that protects both groups.

Without such defining amendments as offered by Senator ERVIN, courts would be left almost total discretion in interpreting the constitutional amendment. Such unfettered discretion in the courts to decide all cases involving differences between men and women on a case-by-case basis would create chaos in the courts, and a power and an opportunity that the courts do not want. They cannot carry it, and they have practical judgment enough to know that.

Congress should give its guidance to the courts by establishing reasonable standards for interpretation of the proposed constitutional amendment, such as the standard recognizing physiological or functional differences in the amendment offered by Senator ERVIN.

It is obvious that some laws must treat men and women differently, and even the strongest advocates of the equal rights amendment recognize the need for legal recognition of certain differences. Laws protecting the rights of working women during pregnancy, and to establish paternity are good examples.

In conclusion, Mr. President, I urge the Senate to seriously consider and to vote for both of the amendments to be offered by Senator ERVIN to the present resolution, the first of which exempts women from the military draft, which, I think, is an absolute necessity, and the second requiring legal recognition of the abiding physiological and functional differences between men and women. Otherwise, we are standing in the realm of fantasy, we are standing on fictitious ground, and we will find, to our great regret, that we are destroying the basic fabric of the family as well as the foundation of our society.

I thank the Senator from North Carolina for his generosity in yielding to me, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, I yield myself such time as I may require.

I listened with great interest to the speech of my friend, the Senator from Mississippi. He is one of the most responsible and conscientious Members of this body. I know very well that every word he utters comes not just from his mouth but from his heart as well. I make the following rebuttal with that premise in mind.

I would like, first, to deal with the rather general indictment—and I think it was a benevolent indictment but, nevertheless, an indictment—of the entire thrust of the equal rights amendment as delivered by the Senator from Mississippi; and then I will deal with the specific reference that both he and the Senator from North Carolina made concerning the specific amendment to the amendment, which is now the pending order of business, the amendment offered relative to draft and combat service, offered by my good friend from North Carolina. I feel, perhaps, that the best way to deal with the broad-based indictment of the Senator from Mississippi is to go down the line point by point. I do not think it is necessary to go into all of the infinite detail because much of the argument, in the judgment of the Senator from Indiana, was a bit redundant. But let me talk directly to some of the specific concerns expressed by the Senator from Mississippi.

Frankly, I feel that these are legitimate concerns but I feel, upon close reflection and careful study of the true impact of the amendment and the broad-based authority developed, that the concern legitimate at first blush dissipates and indeed disappears in toto.

The Senator from Mississippi was concerned about a State statute relative to police forces, suggesting that if this amendment passed, we are going to have to strike down the constitutionality of Mississippi statutes relative to the police.

I am not familiar with the situation in Mississippi, but most police forces in this country today have women in them already. There is a definite need for policewomen. What this amendment would do would say that we are going to have to let women risk their lives wearing the blue uniform, in the same way that men risk their lives wearing the blue uniform, in order to protect society, if women who are qualified wish to join police forces.

Why should that not be the case? Why should that not be the case for a woman undercover agent in a metropolitan police force to have her family protected with the same kind of pension benefits as a man doing the same work? That is what we are dealing with.

Mr. President, I think that the fear expressed by the Senator from Mississippi ignores the reality of life today. Women are willing to give themselves in order to protect their fellowman, property, and family. That is what is happening now.

Regarding hours and working conditions, the Senator from Mississippi expressed concern that we turn the clock back. I think his specific concern was expressed as exposing womanhood in this country to excessively long hours and unsafe working conditions. I would hope that the distinguished Senator from Mississippi, or any other Member of this body, will not suggest that we should subject the men in this country to excessively long hours and unsafe working conditions.

In fact, during the past year, we passed a major piece of legislation through Congress designed to upgrade the safety and working conditions of all our work forces—not just women but also men.

Anyone who works in a plant, a factory, or on a farm, should be given certain safeguards so that there is no needless loss of life or limb. What we are suggesting is that if there is an unsafe working condition for a woman, there is also an unsafe working condition for a man; that if certain machinery is being used by a man, women who are qualified should be able to use that same piece of machinery. We are not trying to strike down the laws which try to protect working women; we are trying to expand the laws to the whole of the work force.

The Senator, unfortunately, made the statement—which is not unique from his lips, but it is a general misconception—that the only people who are protesting equality for women are those in high executive positions, because they are the only ones who need protecting.

Let me say that it would not be accurate to suggest that women who desire professional careers do not need protecting, because they do. The highest incidence of discrimination exists in the area where women are denied the full utilization of their skills and their intellects, because of arbitrary and outdated quotas either real and published or, equally sinister, unpublished but practiced.

An infinitesimally small number of women are permitted to enter medical or law schools in this country, despite the fact that the average woman college entrant has higher standards intellectually and higher grades in high school than the average man. It is rather obvious to any woman who has tried to gain access into a blue ribbon law firm or to be an intern at a major hospital, and the evidence is significant, that the cards are stacked against a woman equally skilled to practice medicine or to defend a client before the bar in this country. Some States even go so far as to require that a woman who wants to go into business must first go to court to get a court order before she can go into business for herself. Not so for a man.

I suggest to the Senator from Mississippi—and he is absolutely right—that the woman who wants to have a professional career is in desperate need of protection. But it does not stop there. There are those who work at the lower end of the wage totem pole who are equally in need of protection. If we look at the work force across the board it is interesting—perhaps a better descriptive word would be alarming—to look at those women who have been fortunate enough to graduate and have a 4-year college diploma in their possession, to see how fairly they are compensated in the work force. Talk about equal pay for equal work. Some on the floor of the Senate say, "I am for equal pay for equal work, but I am not for equal rights for women." But can they get equal pay for equal work unless the women who work in the work force have an equal chance to get an equal pay check? Look at the facts. A woman with a college degree today earns an average income about the same as a man who has had an 8th grade education. That is a fact—an irrefutable fact.

Let us look at some of the well-intentioned laws that were passed, designed, I think, in all good conscience, to protect women in an era when they needed protecting desperately, just as, in that era, small children pushed carts filled with spinning material, or labored in the

fields—and still labor in the fields, unfortunately—needed protection. I am not denying that when these measures were passed there was a real need. The enactment of these laws was a positive step. But I am suggesting, as forcefully as I can, that in this day and age, in the midst of the space age, not the dawning of the industrial age, but in the midst of the space age, these laws which at one time were designed and did in fact protect, are now discriminating against and punishing the very people they were designed to protect.

How can I say that? Let me mention the specific State laws that have been referred to in our committee reports and in our hearings that indeed do, in fact, exist today. There are some State laws that say a woman cannot hold a job if she is required to lift as much as a 30-pound weight, even once during an 8-hour day, one 30-pound weight. Some people may say that is rather reasonable and why should a woman be forced to lift a 30-pound weight? Is that not dangerous to her health if she has a job where, perhaps every hour or maybe at the end of the day, she has to close a machine by putting a 30-pound weight on the top of it? Is not such a law to her own best interest?

For those who argue that, let me suggest that we ought to be consistent. We ought to say to a housewife when she goes to the grocery store that she will not be allowed to carry a 30-pound bag of groceries. I do not hear any Senator suggesting that. I must say that I am shocked. Some of these grocery bags weigh 30 pounds and more. Yet, there are more women carrying grocery bags and leaning out of cars and endangering their own health than there are women working in the factory and lifting 30-pound weights.

What about the mother? Fortunately, the good Lord gave us a boy who was really a boy from the time he came into the world, kicking and screaming. At times he was all that his mother could handle and all that his father could handle. It did not take him long to get to 30 pounds. No one is suggesting that my wife, the child's mother, ought to be prohibited from carrying a 30-pound child, something for which there is very little remuneration, in a pecuniary sense, let me hasten to add.

These laws, well intentioned as they are, deny women the same access to some of the more lucrative jobs in this country. This may be unintentional but it is true. Not that a woman should not have to lift 30 pounds or maybe move a 150-pound or 200-pound refrigerator, I am not suggesting that. But I am saying that I have seen some men I would not want to trust with a 150-pound or 200-pound refrigerator. Should we not say that the weight to be lifted should not depend upon the sex of the individual, but rather upon the strength of the individual? Some women are capable of great strength, and some women are not. Some men are capable of great strength and some men are not. Let us let the chips fall where they may. Legal rights and responsibilities should turn on the ability of the individual and not the sexual characteristics the individual has.

What about the 40-hour limitation by law? The Senator from Mississippi described it as excessive hours of work. I do not want the women of this country exposed to excessive hours of work, nor the men either for that matter. However, let us look specifically at State x, and indeed there is more than one State x, which has a law that says that no woman shall be permitted to work for more than 40 hours p-e-r-i-o-d, end of statute.

What does this mean? This means that even if that woman wants to, she cannot work overtime and get time and a half. It means that even if they are ready to kick her out on the streets because she cannot pay the rent, she cannot work on Sundays and holidays and get double time, although the man right beside her can.

It means that she is limited to 40 hours a week and she will never move up into the supervisory personnel, because one does not get there unless one is able to work more than 40 hours a week. An individual cannot supervise a farm, a home, or anything else by working only 40 hours a week. By passing such a statute, the State is saying that women will not have a chance to make extra money for themselves and their families and will be precluded from holding more responsible and more lucrative positions. Whether that was the intention of the statute from the beginning, who is to say? However, that is the impact today. Does this really have a limited impact on the professional women or even on the women who work as electricians or as communication workers? I wonder, Mr. President. If we really look at where the sociological impact of this kind of legislation rests, it does not stop at the plant gate.

I want the record to show, well intentioned as these statutes are, 44 percent of the women in this country who work are the sole support of their families.

Some say that if we give women equal work and pay, a lot of women will run out and work.

Anyone who has read the recent labor statistics knows that there are a lot of women out there already, either because they want to or have to. What about those who are denying these women an opportunity to make this compensation? Who bears the brunt of this discrimination?

As I was saying a moment ago, of all the women who work, almost half—44 percent to be specific—as of the last Labor Department census, are the sole support of their family unit—44 percent.

So, when we say that a working woman cannot get overtime, that a working woman cannot get double time, that a working woman cannot work long enough to become a supervisor or a manager, we are saying that the children for whom she is the sole support are the ones who must bear the burdens and suffer the pains of this discrimination.

What about the business of the restrooms, prisons, and dormitories? Some say that we will have to send the little first graders, boys and girls, to the potty at the same time in order to subscribe to the conditions put down by the equal rights amendment.

Mr. President, I would share that concern, although perhaps not at the first grade level, but a little later on if that were the true impact of the amendment. Mr. President, I refer to college dormitories, public buildings, and school buildings. I ask unanimous consent to have printed at this point in the RECORD the case of Griswold against Connecticut, which pertains to the constitutional right of privacy.

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

LEADING DECISIONS OF THE U.S. SUPREME COURT—GRISWOLD ET AL. V. CONNECTICUT, 381 U.S. 479 (1695)

Thomas I. Emerson argued the cause for appellants. With him on the briefs was *Catherine G. Roraback.*

Joseph B. Clark argued the cause for appellee. With him on the brief was *Julius Maretz.*

Briefs of *amici curiae,* urging reversal, were filed by *Whitney North Seymour* and *Eleanor M. Fox* for Dr. John M. Adams et al.; by *Morris L. Ernst, Harriet F. Pilpel* and *Nancy F. Wechsler* for the Planned Parenthood Federation of America, Inc.; by *Alfred L. Scanlon* for the Catholic Council on Civil Liberties, and by *Rhoda H. Karpatkin, Melvin L. Wulf* and *Jerome E. Caplan* for the American Civil Liberties Union et al.

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

Appellant Griswold is Executive Director of the Planned Parenthood League of Connecticut. Appellant Buxton is a licensed physician and a professor at the Yale Medical School who served as Medical Director for the League at its Center in New Haven—a center open and operating from November 1 to November 10, 1961, when appellants were arrested.

They gave information, instruction, and medical advice to *married persons* as to the means of preventing conception. They examined the wife and prescribed the best contraceptive device or material for her use. Fees were usually charged, although some couples were serviced free.

The statutes whose constitutionality is involved in this appeal are §§ 53–32 and 54–196 of the General Statutes of Connecticut (1958 rev.). The former provides:

"Any person who uses any drug, medicinal article or instrument for the purpose of preventing conception shall be fined not less than fifty dollars or imprisoned not less than sixty days nor more than one year or be both fined and imprisoned."

Section 54–196 provides:

"Any person who assists, abets, counsels, causes, hires or commands another to commit any offense may be prosecuted and punished as if he were the principal offender."

The appellants were found guilty as accessories and fined $100 each, against the claim that the accessory statute as so applied violated the Fourteenth Amendment. The Apellate Division of the Circuit Court affirmed. The Supreme Court of Errors affirmed that judgment. 151 Conn. 544, 200 A. 2d 479. We noted probable jurisdiction. 379 U.S. 926.

We think that appellants have standing to raise the constitutional rights of the married people with whom they had a professional relationship. *Tileston* v. *Ullman,* 318 U.S. 44, is different, for there the plaintiff seeking to represent others asked for a declaratory judgment. In that situation we thought that the requirements of standing should be strict, lest the standards of "case or controversy" in Article III of the Constitution become blurred. Here those doubts are removed by reason of a criminal conviction for serving married couples in violation of an

aiding-and-abetting statute. Certainly the accessory should have standing to assert that the offense which he is charged with assisting is not, or cannot constitutionally be, a crime.

This case is more akin to *Truax* v. *Raich*, 239 U.S. 33, where an employee was permitted to assert the rights of his employer; to *Pierce* v. *Society of Sisters*, 268 U.S. 510, where the owners of private schools were entitled to assert the rights of potential pupils and their parents; and to *Barrows* v. *Jackson*, 346 U.S. 249, where a white defendant, party to a racially restrictive covenant, who was being sued for damages by the covenantors because she had conveyed her property to Negroes, was allowed to raise the issue that enforcement of the covenant violated the rights of prospective Negro purchasers to equal protection, although no Negro was a party to the suit. And see *Meyer* v. *Nebraska*, 262 U.S. 390; *Adler* v. *Board of Education*, 342 U.S. 485; *NAACP* v. *Alabama*, 357 U.S. 449; *NAACP* v. *Button*, 371 U.S. 415. The rights of husband and wife, pressed here, are likely to be diluted or adversely affected unless those rights are considered in a suit involving those who have this kind of confidential relation to them.

Coming to the merits, we are met with a wide range of questions that implicate to the Due Process Clause of the Fourteenth Amendment. Overtones of some arguments suggest that *Lochner* v. *New York*, 198 U.S. 45, should be our guide. But we decline that invitation as we did in *West Coast Hotel Co.* v. *Parrish*, 300 U.S. 379; *Olsen* v. *Nebraska*, 313 U.S. 236; *Lincoln Union* v. *Northwestern Co.*, 335 U.S. 525; *Williamson* v. *Lee Optical Co.*, 348 U.S. 483; *Giboney* v. *Empire Storage Co.*, 336 U.S. 490. We do not sit as a super legislature to determine the wisdom, need, and propriety of laws that touch economic problems, business affairs, or social conditions. This law, however, operates directly on an intimate relation of husband and wife and their physician's role in one aspect of that relation.

The association of people is not mentioned in the Constitution nor in the Bill of Rights. The right to educate a child in a school of the parents' choice—whether public or private or parochial—is also not mentioned. Nor is the right to study any particular subject or any foreign language. Yet the First Amendment has been construed to include certain of those rights.

By *Pierce* v. *Society of Sisters*, *supra*, the right to educate one's children as one chooses is made applicable to the States by the force of the First and Fourteenth Amendments. By *Meyer* v. *Nebraska*, *supra*, the same dignity is given the right to study the German language in a private school. In other words, the State may not, consistently with the spirit of the First Amendment, contract the spectrum of available knowledge. The right of freedom of speech and press includes not only the right to utter or to print, but the right to distribute, the right to receive, the right to read (*Martin* v. *Struthers*, 319 U.S. 141, 143) and freedom of inquiry, freedom of thought, and freedom to teach (see *Wieman* v. *Updegraff*, 344 U.S. 183, 195)—indeed the freedom of the entire university community. *Sweezy* v. *New Hampshire*, 354 U.S. 234, 249–250, 261–263; *Barenblatt* v. *United States*, 360 U.S. 109, 112; *Baggett* v. *Bullitt*, 377 U.S. 360, 369. Without those peripheral rights the specific rights would be less secure. And so we reaffirm the principle of the *Pierce* and the *Meyer* cases.

In *NAACP* v. *Alabama*, 357 U.S. 449, 462, we protected the "freedom to associate and privacy in one's associations," noting that freedom of association was a peripheral First Amendment right. Disclosure of membership lists of a constitutionally valid association, we held, was invalid "as entailing the likelihood of a substantial restraint upon the exercise by petitioner's members of their right to freedom of association." *Ibid.* In other words, the First Amendment has a penumbra where privacy is protected from governmental intrusion. In like context, we have protected forms of "association" that are not political in the customary sense but pertain to the social, legal, and economic benefit of the members. *NAACP* v. *Button*, 371 U.S. 415, 430–431. In *Schware* v. *Board of Bar Examiners*, 353 U.S. 232, we held it not permissible to bar a lawyer from practice, because he had once been a member of the Communist Party. The man's "association with that Party" was not shown to be "anything more than a political faith in a political party" (*id.*, at 244) and was not action of a kind proving bad moral character. *Id.*, at 245–246.

Those cases involved more than the "right of assembly"—a right that extends to all irrespective of their race or ideology. *DeJonge* v. *Oregon*, 299 U.S. 353. The right of "association," like the right of belief (*Board of Education* v. *Barnette*, 319 U.S. 624), is more than the right to attend a meeting; it includes the right to express one's attitudes or philosophies by membership in a group or by affiliation with it or by other lawful means. Association in that context is a form of expression of opinion; and while it is not expressly included in the First Amendment its existence is necessary in making the express guarantees fully meaningful.

The foregoing cases suggest that specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance. See *Poe* v. *Ullman*, 367 U.S. 497, 516–522 (dissenting opinion). Various guarantees create zones of privacy. The right of association contained in the penumbra of the First Amendment is one, as we have seen. The Third Amendment in its prohibition against the quartering of soldiers "in any house" in time of peace without the consent of the owner is another facet of that privacy. The Fourth Amendment explicitly affirms the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." The Fifth Amendment in its Self-Incrimination Clause enables the citizen to create a zone of privacy which government may not force him to surrender to his detriment. The Ninth Amendment provides: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

The Fourth and Fifth Amendments were described in *Boyd* v. *United States*, 116 U.S. 616, 630, as protection against all governmental invasions "of the sanctity of a man's home and the privacies of life."* We recently referred in *Mapp* v. *Ohio*, 367 U.S. 643, 656, to the Fourth Amendment as creating a "right to privacy, no less important than any other right carefully and particularly reserved to the people." See Beaney, The Constitutional Right to Privacy, 1962 Sup. Ct. Rev. 212; Griswold, The Right to be Let Alone, 55 Nw. U.L. Rev. 216 (1960).

We have had many controversies over these penumbral rights of "privacy and repose." See, *e.g.*, *Breard* v. *Alexandria*, 341 U.S. 622, 626, 644; *Public Utilities Comm'n* v. *Pollak*, 343 U.S. 451; *Monroe* v. *Pape*, 365 U.S. 167; *Lanza* v. *New York*, 370 U.S. 139; *Frank* v. *Maryland*, 359 U.S. 360; *Skinner* v. *Oklahoma*, 316 U.S. 535, 541. These cases bear witness that the right of privacy which presses for recognition here is a legitimate one.

The present case, then, concerns a relationship lying within the zone of privacy created by several fundamental constitutional guarantees. And it concerns a law which, in forbidding the *use* of contraceptives rather than regulating their manufacture or sale, seeks to achieve its goals by means having a maximum destructive impact upon that relationship. Such a law cannot stand in light of the familiar principle, so often applied by this Court, that a "governmental purpose to control or prevent activities constitutionally subject to state regulation may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of protected freedoms." *NAACP* v. *Alabama*, 377 U.S. 288, 307. Would we allow the police to search the sacred precincts of marital bedrooms for telltale signs of the use of contraceptives? The very idea is repulsive to the notions of privacy surrounding the marriage relationship.

We deal with a right of privacy older than the Bill of Rights—older than our political parties, older than our school system. Marriage is a coming together for better or for worse, hopefully enduring, and intimate to the degree of being sacred. It is an association that promotes a way of life, not causes; a harmony in living, not political faiths; a bilateral loyalty, not commercial or social projects. Yet it is an association for as noble a purpose as any involved in our prior decisions.

Reversed.

MR. JUSTICE GOLDBERG, whom THE CHIEF JUSTICE and MR. JUSTICE BRENNAN join, concurring.

I agree with the Court that Connecticut's birth-control law unconstitutionally intrudes upon the right of marital privacy, and I join in its opinion and judgment. Although I have not accepted the view that "due process" as used in the Fourteenth Amendment incorporates all of the first eight Amendments (see my concurring opinion in *Pointer* v. *Texas*, 380 U.S. 400, 410, and the dissenting opinion of MR. JUSTICE BRENNAN in *Cohen* v. *Hurley*, 366 U.S. 117, 154), I do agree that the concept of liberty protects those personal rights that are fundamental, and is not confined to the specific terms of the Bill of Rights. My conclusion that the concept of liberty is not so restricted and that it embraces the right of marital privacy though that right is not mentioned explicitly in the Constitution [1] is supported both by numerous decisions of this Court, referred to in the Court's opinion, and by the language and history of the Ninth Amendment. In reaching the conclusion that the right of marital privacy is protected, as being within the protected penumbra of specific guarantees of the Bill of Rights, the Court refers to the Ninth Amendment, *ante*, at 484. I add these words to emphasize the relevance of that Amendment to the Court's holding.

The Court stated many years ago that the Due Process Clause protects those liberties that are "so rooted in the traditions and conscience of our people as to be ranked as fundamental." *Snyder* v. *Massachusetts*, 291 U.S. 97, 105. In *Gitlow* v. *New York*, 268 U.S. 652, 666, the Court said:

"For present purposes we may and do assume that freedom of speech and of the press—which are protected by the First Amendment from abridgment by Congress—are among the *fundamental* personal rights and 'liberties' protected by the due process clause of the Fourteenth Amendment from impairment by the States." (Emphasis added.)

And, in *Meyer* v. *Nebraska*, 262 U.S. 390, 399, the Court, referring to the Fourteenth Amendment, stated:

"While this Court has not attempted to define with exactness the liberty thus guaranteed, the term has received much consideration and some of the included things have been definitely stated. Without doubt, it denotes not merely freedom from bodily restraint but also [for example,] the right . . . to marry, establish a home and bring up children. . . ."

This Court, in a series of decisions, has held that the Fourteenth Amendment ab-

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sorbs and applies to the States those specifics of the first eight amendments which express fundamental personal rights.[2] The language and history of the Ninth Amendment reveal that the Framers of the Constitution believed that there are additional fundamental rights, protected from governmental infringement, which exist alongside those fundamental rights specifically mentioned in the first eight constitutional amendments.

The Ninth Amendment reads, "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." The Amendment is almost entirely the work of James Madison. It was introduced in Congress by him and passed the House and Senate with little or no debate and virtually no change in language. It was proffered to quiet expressed fears that a bill of specifically enumerated rights [3] could not be sufficiently broad to cover all essential rights and that the specific mention of certain rights would be interpreted as a denial that others were protected.[4]

In presenting the proposed Amendment, Madison said:

"It has been objected also against a bill of rights, that, by enumerating particular exceptions to the grant of power, it would disparage those rights which were not placed in that enumeration; and it might follow by implication, that those rights which were not singled out, were intended to be assigned into the hands of the General Government, and were consequently insecure. This is one of the most plausible arguments I have ever heard urged against the admission of a bill of rights into this system; but, I conceive, that it may be guarded against. I have attempted it, as gentlemen may see by turning to the last clause of the fourth resolution [the Ninth Amendment]." I Annals of Congress 439 (Gales and Seaton ed. 1834).

Mr. Justice Story wrote of this argument against a bill of rights and the meaning of the Ninth Amendment:

"In regard to . . . [a] suggestion, that the affirmance of certain rights might disparage others, or might lead to argumentative implications in favor of other powers, it might be sufficient to say that such a course of reasoning could never be sustained upon any solid basis. . . . But a conclusive answer is, that such an attempt may be interdicted (as it has been) by a positive declaration in such a bill of rights that the enumeration of certain rights shall not be construed to deny or disparage others retained by the people." II Story, Commentaries on the Constitution of the United States 626–627 (5th ed. 1891).

He further stated, referring to the Ninth Amendment:

"This clause was manifestly introduced to prevent any perverse or ingenious misapplication of the well-known maxim, that an affirmation in particular cases implies a negation in all others; and *e converso*, that a negation in particular cases implies an affirmation in all others." *Id.*, at 651.

These statements of Madison and Story make clear that the Framers did not intend that the first eight amendments be construed to exhaust the basic and fundamental rights which the Constitution guaranteed to the people.[5]

While this Court has had little occasion to interpret the Ninth Amendment,[6] "[i]t cannot be presumed that any clause in the constitution is intended to be without effect." *Marbury* v. *Madison*, 1 Cranch 137, 174. In interpreting the Constitution, "real effect should be given to all the words it uses." *Myers* v. *United States*, 272 U.S. 52, 151. The Ninth Amendment to the Constitution may be regarded by some as a recent discovery and may be forgotten by others, but since 1791 it has been a basic part of the Constitution which we are sworn to uphold. To hold that a right so basic and fundamental and so deep-rooted in our society as the right of privacy in marriage may be infringed because that right is not guaranteed in so many words by the first eight amendments to the Constitution is to ignore the Ninth Amendment and to give it no effect whatsoever. Moreover, a judicial construction that this fundamental right is not protected by the Constitution because it is not mentioned in explicit terms by one of the first eight amendments or elsewhere in the Constitution would violate the Ninth Amendment, which specifically states that "[t]he enumeration in the Constitution, of certain rights, shall not be *construed* to deny or disparage others retained by the people." (Emphasis added.)

A dissenting opinion suggests that my interpretation of the Ninth Amendment somehow "broaden[s] the powers of this Court." *Post*, at 520. With all due respect, I believe that it misses the import of what I am saying. I do not take the position of my Brother BLACK in his dissent in *Adamson* v. *California*, 332 U.S. 46, 68, that the entire Bill of Rights is incorporated in the Fourteenth Amendment, and I do not mean to imply that the Ninth Amendment is applied against the States by the Fourteenth. Nor do I mean to state that the Ninth Amendment constitutes an independent source of rights protected from infringement by either the States or the Federal Government. Rather, the Ninth Amendment shows a belief of the Constitution's authors that fundamental rights exist that are not expressly enumerated in the first eight amendments and an intent that the list of rights included there not be deemed exhaustive. As any student of this Court's opinions knows, this Court has held, often unanimously, that the Fifth and Fourteenth Amendments protect certain fundamental personal liberties from abridgement by the Federal Government or the States. See, *e.g.*, *Bolling* v. *Sharpe*, 347 U.S. 497; *Aptheker* v. *Secretary of State*, 378 U.S. 500; *Kent* v. *Dulles*, 357 U.S. 116; *Cantwell* v. *Connecticut*, 310 U.S. 296; *NAACP* v. *Alabama*, 357 U.S. 449; *Gideon v. Wainwright*, 372 U.S. 335; *New York Times Co.* v. *Sullivan*, 376 U.S. 254. The Ninth Amendment simply shows the intent of the Constitution's authors that other fundamental personal rights should not be denied such protection or disparaged in any other way simply because they are not specifically listed in the first eight constitutional amendments. I do not see how this broadens the authority of the Court; rather it serves to support what this Court has been doing in protecting fundamental rights.

Nor am I turning somersaults with history in arguing that the Ninth Amendment is relevant in a case dealing with a *State's* infringement of a fundamental right. While the Ninth Amendment—and indeed the entire Bill of Rights—originally concerned restrictions upon *federal* power, the subsequently enacted Fourteenth Amendment prohibits the States as well from abridging fundamental personal liberties. And, the Ninth Amendment, in indicating that not all such liberties are specifically mentioned in the first eight amendments, is surely relevant in showing the existence of other fundamental personal rights, now protected from state, as well as federal, infringement. In sum, the Ninth Amendment simply lends strong support to the view that the "liberty" protected by the Fifth and Fourteenth Amendments from infringement by the Federal Government or the States is not restricted to the rights specifically mentioned in the first eight amendments. Cf. *United Public Works* v. *Mitchell*, 330 U.S. 75, 94–95.

In determining which rights are fundamental, judges are not left at large to decide cases in light of their personal and private notions. Rather, they must look to the "traditions and [collective] conscience of our people" to determine whether a principle is "so rooted [there] . . . as to be ranked as fundamental." *Snyder* v. *Massachusetts*, 291 U.S. 97, 105. The inquiry is whether a right involved "is of such a character that it cannot be denied without violating those 'fundamental principles of liberty and justice which lie at the base of all our civil and political institutions' . . ." *Powell* v. *Alabama*, 287 U.S. 45, 67. "Liberty" also "gains content from the emanations of . . . specific [constitutional] guarantees" and "from experience with the requirements of a free society." *Poe* v. *Ullman*, 367 U.S. 497, 517 (dissenting opinion of MR. JUSTICE DOUGLAS).[7]

I agree fully with the Court that, applying these tests, the right of privacy is a fundamental personal right, emanating "from the totality of the constitutional scheme under which we live." *Id.*, at 521. Mr. Justice Brandeis, dissenting in *Olmstead* v. *United States*, 277 U.S. 438, 478, comprehensively summarized the principles underlying the Constitution's guarantees of privacy:

"The protection guaranteed by the [Fourth and Fifth] Amendments is much broader in scope. The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men."

The Connecticut statutes here involved deal with a particularly important and sensitive area of privacy—that of the marital relation and the marital home. This Court recognized in *Meyer* v. *Nebraska*, *supra*, that the right "to marry, establish a home and bring up children" was an essential part of the liberty guaranteed by the Fourteenth Amendment. 262 U.S., at 399. In *Pierce* v. *Society of Sisters*, 268 U.S. 510, the Court held unconstitutional an Oregon Act which forbade parents from sending their children to private schools because such an act "unreasonably interferes with the liberty of parents and guardians to direct the upbringing and education of children under their control." 268 U.S., at 534–535. As this Court said in *Prince* v. *Massachusetts*, 321 U.S. 158, at 166, the *Meyer* and *Pierce* decisions "have respected the private realm of family life which the state cannot enter."

I agree with MR. JUSTICE HARLAN'S statement in his dissenting opinion in *Poe* v. *Ullman*, 367 U.S. 497, 551–552: "Certainly the safeguarding of the home does not follow merely from the sanctity of property rights. The home derives its pre-eminence as the seat of family life. And the integrity of that life is something so fundamental that it has been found to draw to its protection the principles of more than one explicitly granted Constitutional right. . . . Of this whole 'private realm of family life' it is difficult to imagine what is more private or more intimate than a husband and wife's marital relations."

The entire fabric of the Constitution and the purposes that clearly underlie its specific guarantees demonstrate that the rights to marital privacy and to marry and raise a family are of similar order and magnitude as the fundamental rights specifically protected.

Although the Constitution does not speak in so many words of the right of privacy in marriage, I cannot believe that it offers these fundamental rights no protection. The fact that no particular provision of the Constitution explicitly forbids the State from disrupting the traditional relation of the family—a relation as old and as fundamental as our entire civilization—surely does not show that the Government was meant to

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have the power to do so. Rather, as the Ninth Amendment expressly recognizes, there are fundamental personal rights such as this one, which are protected from abridgment by the Government though not specifically mentioned in the Constitution.

My Brother STEWART, while characterizing the Connecticut birth control law as "an uncommonly silly law," *post*, at 527, would nevertheless let it stand on the ground that it is not for the courts to " 'substitute their social and economic beliefs for the judgment of legislative bodies, who are elected to pass laws.' " *Post*, at 528. Elsewhere, I have stated that "[w]hile I quite agree with Mr. Justice Brandeis that . . . 'a . . . State may . . . serve as a laboratory; and try novel social and economic experiments,' *New State Ice Co.* v. *Liebmann*, 285 U.S. 262, 280, 311 (dissenting opinion), I do not believe that this includes the power to experiment with the fundamental liberties of citizens . . ."[8] The vice of the dissenters' views is that it would permit such experimentation by the States in the area of the fundamental personal rights of its citizens. I cannot agree that the Constitution grants such power either to the States or to the Federal Government.

The logic of the dissents would sanction federal or state legislation that seems to me even more plainly unconstitutional than the statute before us. Surely the Government, absent a showing of a compelling subordinating state interest, could not decree that all husbands and wives must be sterilized after two children have been born to them. Yet by their reasoning such an invasion of marital privacy would not be subject to constitutional challenge because, while it might be "silly," no provision of the Constitution specifically prevents the Government from curtailing the marital right to bear children and raise a family. While it may shock some of my Brethren that the Court today holds that the Constitution protects the right of marital privacy, in my view it is far more shocking to believe that the personal liberty guaranteed by the Constitution does not include protection against such totalitarian limitation of family size, which is at complete variance with our constitutional concepts. Yet, if upon a showing of a slender basis of rationality, a law outlawing voluntary birth control by married persons is valid, then, by the same reasoning, a law requiring compulsory birth control also would seem to be valid. In my view, however, both types of law would unjustifiably intrude upon rights of marital privacy which are constitutionally protected.

In a long series of cases this Court has held that where fundamental personal liberties are involved, they may not be abridged by the States simply on a showing that a regulatory statute has some rational relationship to the effectuation of a proper state purpose. "Where there is a significant encroachment upon personal liberty, the State may prevail only upon showing a subordinating interest which is compelling," *Bates* v. *Little Rock*, 361 U.S. 516, 524. The law must be shown "necessary, and not merely rationally related, to the accomplishment of a permissible state policy." *McLaughlin* v. *Florida*, 379 U.S. 184, 196. See *Schneider* v. *Irvington*, 308 U.S. 147, 161.

Although the Connecticut birth-control law obviously encroaches upon a fundamental personal liberty, the State does not show that the law serves any "subordinating [state] interest which is compelling" or that it is "necessary . . . to the accomplishment of a permissible state policy." The State, at most, argues that there is some rational relation between this statute and what is admittedly a legitimate subject of state concern—the discouraging of extra-marital relations. It says that preventing the use of birth-control devices by married persons helps prevent the indulgence by some in such extra-marital relations.

The rationality of this justification is dubious, particularly in light of the admitted widespread availability to all persons in the State of Connecticut, unmarried as well as married, of birth-control devices for the prevention of disease, as distinguished from the prevention of conception, see *Tileston* v. *Ullman*, 129 Conn. 84, 26 A 2d 582. But, in any event, it is clear that the state interest in safeguarding marital fidelity can be served by a more discriminately tailored statute, which does not, like the present one, sweep unnecessarily broadly, reaching far beyond the evil sought to be dealt with and intruding upon the privacy of all married couples. See *Aptheker* v. *Secretary of State*, 378 U.S. 500, 514; *NAACP* v. *Alabama*, 377 U.S. 288, 307–308; *McLaughlin* v. *Florida*, *supra*, at 196. Here, as elsewhere, "[p]recision of regulation must be the touchstone in an area so closely touching our most precious freedoms." *NAACP* v. *Button*, 371 U.S. 415, 438. The State of Connecticut does have statutes, the constitutionality of which is beyond doubt, which prohibit adultery and fornication. See Conn. Gen. Stat. §§ 53–218, 53–219 *et seq.* These statutes demonstrate that means for achieving the same basic purpose of protecting marital fidelity are available to Connecticut without the need to "invade the area of protected freedoms." *NAACP* v. *Alabama*, *supra*, at 307. See *McLaughlin* v. *Florida*, *supra*, at 196.

Finally, it should be said of the Court's holding today that it in no way interferes with a State's proper regulation of sexual promiscuity or misconduct. As my Brother HARLAN so well stated in his dissenting opinion in *Poe* v. *Ullman*, *supra*, at 553.

"Adultery, homosexuality and the like are sexual intimacies which the State forbids . . . but the intimacy of husband and wife is necessarily an essential and accepted feature of the institution of marriage, an institution which the State not only must allow, but which always and in every age it has fostered and protected. It is one thing when the State exerts its power either to forbid extra-marital sexuality . . . or to say who may marry, but it is quite another when, having acknowledged a marriage and the intimacies inherent in it, it undertakes to regulate by means of the criminal law the details of that intimacy."

In sum, I believe that the right of privacy in the marital relation is fundamental and basic—a personal right "retained by the people" within the meaning of the Ninth Amendment. Connecticut cannot constitutionally abridge this fundamental right, which is protected by the Fourteenth Amendment from infringement by the States. I agree with the Court that petitioners' convictions must therefore be reversed.

MR. JUSTICE HARLAN, concurring in the judgment.

I fully agree with the judgment of reversal, but find myself unable to join the Court's opinion. The reason is that it seems to me to evince an approach to this case very much like that taken by my Brothers BLACK and STEWART in dissent, namely: the Due Process Clause of the Fourteenth Amendment does not touch this Connecticut statute unless the enactment is found to violate some right assured by the letter or penumbra of the Bill of Rights.

In other words, what I find implicit in the Court's opinion is that the "incorporation" doctrine may be used to *restrict* the reach of Fourteenth Amendment Due Process. For me this is just as unacceptable constitutional doctrine as is the use of the "incorporation" approach to *impose* upon the States all the requirements of the Bill of Rights as found in the provisions of the first eight amendments and in the decisions of this Court interpreting them. See, *e.g.*, my concurring opinions in *Pointer* v. *Texas*, 380 U.S. 400, 408, and *Griffin* v. *California*, 380 U.S. 609, 615, and my dissenting opinion in *Poe* v. *Ullman*, 367 U.S. 497, 522, at pp. 539–545.

In my view, the proper constitutional inquiry in this case is whether this Connecticut statute infringes the Due Process Clause of the Fourteenth Amendment because the enactment violates basic values "implicit in the concept of ordered liberty," *Palko* v. *Connecticut*, 302 U.S. 319, 325. For reasons stated at length in my dissenting opinion in *Poe* v. *Ullman*, *supra*, I believe that it does. While the relevant inquiry may be aided by resort to one or more of the provisions of the Bill of Rights, it is not dependent on them or any of their radiations. The Due Process Clause of the Fourteenth Amendment stands, in my opinion, on its own bottom.

A further observation seems in order respecting the justification of my Brothers BLACK and STEWART for their "incorporation" approach to this case. Their approach does not rest on historical reasons, which are of course wholly lacking (see Fairman, Does the Fourteenth Amendment Incorporate the Bill of Rights? The Original Understanding, 2 Stan. L. Rev. 5 (1949)), but on the thesis that by limiting the content of the Due Process Clause of the Fourteenth Amendment to the protection of rights which can be found elsewhere in the Constitution, in this instance in the Bill of Rights, judges will thus be confined to "interpretation" of specific constitutional provisions, and will thereby be restrained from introducing their own notions of constitutional right and wrong into the "vague contours of the Due Process Clause." *Rochin* v. *California*, 342 U.S. 165, 170.

While I could not more heartily agree that judicial "self restraint" is an indispensable ingredient of sound constitutional adjudication, I do submit that the formula suggested for achieving it is more hollow than real. "Specific" provisions of the Constitution, no less than "due process," lend themselves as readily to "personal" interpretations by judges whose constitutional outlook is simply to keep the Constitution in supposed "tune with the times" (*post*, p. 522). Need one go further than to recall last Term's reapportionment cases, *Wesberry* v. *Sanders*, 376 U.S. 1, and *Reynolds* v. *Sims*, 377 U.S. 533, where a majority of the Court "interpreted" "by the People" (Art. I, § 2) and "equal protection" (Amdt. 14) to command "one person, one vote," an interpretation that was made in the face of irrefutable and still unanswered history to the contrary? See my dissenting opinions in those cases, 376 U.S., at 20; 377 U.S., at 589.

Judicial self-restraint will not, I suggest, be brought about in the "due process" area by the historically unfounded incorporation formula long advanced by my Brother BLACK, and now in part espoused by my Brother STEWART. It will be achieved in this area, as in other constitutional areas, only by continual insistence upon respect for the teachings of history, solid recognition of the basic values that underlie our society, and wise appreciation of the great roles that the doctrines of federalism and separation of powers have played in establishing and preserving American freedoms. See *Adamson* v. *California*, 332 U.S. 46, 59 (Mr. Justice Frankfurter, concurring). Adherence to these principles will not, of course, obviate all constitutional differences of opinion among judges, nor should it. Their continued recognition will, however, go farther toward keeping most judges from roaming at large in the constitutional field than will the interpolation into the Constitution of an artificial and largely illusory restriction on the content of the Due Process Clause.[9]

MR. JUSTICE WHITE, concurring in the judgment.

In my view this Connecticut law as applied to married couples deprives them of "liberty" without due process of law, as that

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concept is used in the Fourteenth Amendment. I therefore concur in the judgment of the Court reversing these convictions under Connecticut's aiding and abetting statute.

It would be unduly repetitious, and belaboring the obvious, to expound on the impact of this statute on the liberty guaranteed by the Fourteenth Amendment against arbitrary or capricious denials or on the nature of this liberty. Suffice it to say that the Connecticut birth-control cases, *Tileston* v. *Ullman*, 318 U.S. 44; *Poe* v. *Ullman*, 367 U.S. 497, were not the first time this Court had occasion to articulate that the liberty entitled to protection under the Fourteenth Amendment includes the right "to marry, establish a home and bring up children," *Meyer* v. *Nebraska*, 262 U.S. 390, 399, and "the liberty . . . to direct the upbringing and education of children," *Pierce* v. *Society of Sisters*, 268 U.S. 510, 534–535, and that these are among "the basic civil rights of man." *Skinner* v. *Oklahoma*, 316 U.S. 535, 541. These decisions affirm that there is a "realm of family life which the state cannot enter" without substantial justification. *Prince* v. *Massachusetts*, 321 U.S. 158, 166. Surely the right invoked in this case, to be free of regulation of the intimacies of the marriage relationship, "come[s] to this Court with a momentum for respect lacking when appeal is made to liberties which derive merely from shifting economic arrangements." *Kovacs* v. *Cooper*, 336 U.S. 77, 95 (opinion of Frankfurter, J.).

The Connecticut anti-contraceptive statute deals rather substantially with this relationship. For it forbids all married persons the right to use birth-control devices, regardless of whether their use is dictated by considerations of family planning, *Trubek* v. *Ullman*, 147 Conn. 633, 165 A. 2d 158 health, or indeed even of life itself, *Buxton* v. *Ullman*, 147 Conn. 48, 156 A. 2d 508. The use statute, together with the general aiding and abetting statute, prohibits doctors from affording advice to married persons on proper and effective methods of birth control. *Tileston* v. *Ullman*, 129 Conn. 84, 26 A. 2d 582. And the clear effect of these statutes, as enforced, is to deny disadvantaged citizens of Connecticut, those without either adequate knowledge or resources to obtain private counseling, access to medical assistance and up-to-date information in respect to proper methods of birth control. *State* v. *Nelson*, 126 Conn. 412, 11 A. 2d 856; *State* v. *Griswold*, 151 Conn. 544, 200 A. 2d 479. In my view, a statute with these effects bears a substantial burden of justification when attacked under the Fourteenth Amendment. *Yick Wo* v. *Hopkins*, 118 U.S. 356; *Skinner* v. *Oklahoma*, 316 U.S. 535; *Schware* v. *Board of Bar Examiners*, 353 U.S. 232; *McLaughlin* v. *Florida*, 379 U.S. 184, 192.

An examination of the justification offered, however, cannot be avoided by saying that the Connecticut anti-use statute invades a protected area of privacy and association or that it demeans the marriage relationship. The nature of the right invaded is pertinent, to be sure, for statutes regulating sensitive areas of liberty do, under the cases of this Court, require "strict scrutiny," *Skinner* v. *Oklahoma*, 316 U.S. 535, 541, and "must be viewed in the light of less drastic means for achieving the same basic purpose." *Shelton* v. *Tucker*, 364 U.S. 479, 488. "Where there is a significant encroachment upon personal liberty, the State may prevail only upon showing a subordinating interest which is compelling." *Bates* v. *Little Rock*, 361 U.S. 516, 524. See also *McLaughlin* v. *Florida*, 379 U.S. 184. But such statutes, if reasonably necessary for the effectuation of a legitimate and substantial state interest, and not arbitrary or capricious in application, are not invalid under the Due Process Clause. *Zemel* v. *Rusk*, 381 U.S. 1.[10]

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As I read the opinions of the Connecticut courts and the argument of Connecticut in this Court, the State claims but one justification for its anti-use statute. Cf. *Allied Stores of Ohio* v. *Bowers*, 358 U.S. 522, 530; *Martin* v. *Walton*, 368 U.S. 25, 28 (DOUGLAS, J., dissenting). There is no serious contention that Connecticut thinks the use of artificial or external methods of contraception immoral or unwise in itself, or that the anti-use statute is founded upon any policy of promoting population expansion. Rather, the statute is said to serve the State's policy against all forms of promiscuous or illicit sexual relationships, be they premarital or extramarital, concededly a permissible and legitimate legislative goal.

Without taking issue with the premise that the fear of conception operates as a deterrent to such relationships in addition to the criminal proscriptions Connecticut has against such conduct, I wholly fail to see how the ban on the use of contraceptives by married couples in any way reinforces the State's ban on illicit sexual relationships. See *Schware* v. *Board of Bar Examiners*, 353 U.S. 232, 239. Connecticut does not bar the importation or possession of contraceptive devices; they are not considered contraband material under state law, *State* v. *Certain Contraceptive Materials*, 126 Conn. 428, 11 A. 2d 863, and their availability in that State is not seriously disputed. The only way Connecticut seeks to limit or control the availability of such devices is through its general aiding and abetting statute whose operation in this context has been quite obviously ineffective and whose most serious use has been against birth-control clinics rendering advice to married, rather than unmarried, persons. Cf. *Yick Wo* v. *Hopkins*, 118 U.S. 356. Indeed, after over 80 years of the State's anti-use proscription, the legality of the sale of such devices to prevent disease has never been expressly passed upon, although it appears that sales have long occurred and have only infrequently been challenged. This "undeviating policy . . . throughout all the long years . . . bespeaks more than prosecutorial paralysis." *Poe* v. *Ullman*, 367 U.S. 497, 502. Moreover, it would appear that the sale of contraceptives to prevent disease is plainly legal under Connecticut law.

In these circumstances one is rather hard pressed to explain how the ban on use by married persons in any way prevents use of such devices by persons engaging in illicit sexual relations and thereby contributes to the State's policy against such relationships. Neither the state courts nor the State before the bar of this Court has tendered such an explanation. It is purely fanciful to believe that the broad proscription on use facilitates discovery of use by persons engaging in a prohibited relationship or for some other reason makes such use more unlikely and thus can be supported by any sort of administrative consideration. Perhaps the theory is that the flat ban on use prevents married people from possessing contraceptives and without the ready availability of such devices for use in the marital relationship, there will be no or less temptation to use them in extramarital ones. This reasoning rests on the premise that married people will comply with the anti-use ban in regard to their marital relationship, notwithstanding total nonenforcement in this context and apparent nonenforcibility, but will not comply with criminal statutes prohibiting extramarital affairs and the anti-use statute in respect to illicit sexual relationships, a premise whose validity has not been demonstrated and whose intrinsic validity is not very evident. At most the broad ban is of marginal utility to the declared objective. A statute limiting its prohibition on use to persons engaging in the prohibited relationship would serve the end posited by Connecticut in the same way, and with the same effectiveness, or ineffectiveness, as the broad anti-use statute under attack in this case. I find nothing in this record justifying the sweeping scope of this statute, with its telling effect on the freedoms of married persons, and therefore conclude that it deprives such persons of liberty without due process of law.

Mr. JUSTICE BLACK, with whom Mr. JUSTICE STEWART joins, dissenting.

I agree with my Brother STEWART's dissenting opinion. And like him I do not to any extent whatever base my view that this Connecticut law is constitutional on a belief that the law is wise or that its policy is a good one. In order that there may be no room at all to doubt why I vote as I do, I feel constrained to add that the law is every bit as offensive to me as it is to my Brethren of the majority and my Brothers HARLAN, WHITE and GOLDBERG who, reciting reasons why it is offensive to them, hold it unconstitutional. There is no single one of the graphic and eloquent strictures and criticisms fired at the policy of this Connecticut law either by the Court's opinion or by those of my concurring Brethren to which I cannot subscribe—except their conclusion that the evil qualities they see in the law make it unconstitutional.

Had the doctor defendant here, or even the nondoctor defendant, been convicted for doing nothing more than expressing opinions to persons coming to the clinic that certain contraceptive devices, medicines or practices would do them good and would be desirable, or for telling people how devices could be used, I can think of no reasons at this time why their expressions of views would not be protected by the First and Fourteenth Amendments, which guarantee freedom of speech. Cf. *Brotherhood of Railroad Trainmen* v. *Virginia ex rel. Virginia State Bar* 377 U.S. 1; *NAACP* v. *Button*, 371 U.S. 415. But speech is one thing; conduct and physical activities are quite another. See, *e.g.*, *Cox* v. *Louisiana*, 379 U.S. 536, 554–555; *Cox* v. *Louisiana*, 379 U.S. 559, 563–564; *id.*, 575–584 (concurring opinion); *Giboney* v. *Empire Storage & Ice Co.*, 336 U.S. 490; cf. *Reynolds* v. *United States*, 98 U.S. 145, 163–164. The two defendants here were active participants in an organization which gave physical examinations to women, advised them what kind of contraceptive devices or medicines would most likely be satisfactory for them, and then supplied the devices themselves, all for a graduated scale of fees, based on the family income. Thus these defendants admittedly engaged with others in a planned course of conduct to help people violate the Connecticut law. Merely because some speech was used in carrying on that conduct—just as in ordinary life some speech accompanies most kinds of conduct—we are not in my view any more justified in holding that the First Amendment forbids the State to punish their conduct. Strongly as I desire to protect all First Amendment freedom, I am unable to stretch the Amendment so as to afford protection to the conduct of these defendants in violating the Connecticut law. What would be the constitutional fate of the law if hereafter applied to punish nothing but speech is, as I have said, quite another matter.

The Court talks about a constitutional "right of privacy" as though there is some constitutional provision or provisions forbidding any law ever to be passed which might abridge the "privacy" of individuals. But there is not. There are, of course, guarantees in certain specific constitutional provisions which are designed in part to protect privacy at certain times and places with respect to certain activities. Such, for example, is the Fourth Amendment's guarantee against "unreasonable searches and seizures." But I think it belittles that Amendment to talk about it as though it protects nothing but "privacy." To treat it that way is to give it a niggardly interpretation, not the kind of liberal reading I think any Bill of Rights

provision should be given. The average man would very likely not have his feelings soothed any more by having his property seized openly than by having it seized privately and by stealth. He simply wants his property left alone. And a person can be just as much, if not more, irritated, annoyed and injured by an unceremonious public arrest by a policeman as he is by a seizure in the privacy of his office or home.

One of the most effective ways of diluting or expanding a constitutionally guaranteed right is to substitute for the crucial word or words, more or less flexible and more or less restricted in meaning. This fact is well illustrated by the use of the term "right of privacy" as a comprehensive substitute for the Fourth Amendment's guarantee against "unreasonable searches and seizures." "Privacy" is a broad, abstract and ambiguous concept which can easily be shrunken in meaning but which can also, on the other hand, easily be interpreted as a constitutional ban against many things other than searches and seizures. I have expressed the view many times that First Amendment freedoms, for example, have suffered from a failure of the courts to stick to the simple language of the First Amendment in construing it, instead of invoking multitudes of words substituted for those the Framers used. See, *e.g., New York Times Co.* v. *Sullivan*, 376 U.S. 254, 293 (concurring opinion); cases collected in *City of El Paso* v. *Simmons*, 379 U.S. 497, 517, n. 1 (dissenting opinion); Black, The Bill of Rights, 35 N.Y. U.L. Rev. 865. For these reasons I get nowhere in this case by talk about a constitutional "right of privacy" as an emanation from one or more constitutional provisions.[11] I like my privacy as well as the next one, but I am nevertheless compelled to admit that government has a right to invade it unless prohibited by some specific constitutional provision. For these reasons I cannot agree with the Court's judgment and the reasons it gives for holding this Connecticut law unconstitutional.

This brings me to the arguments made by my Brothers HARLAN, WHITE and GOLDBERG for invalidating the Connecticut law. Brothers HARLAN [12] and WHITE would invalidate it by reliance on the Due Process Clause of the Fourteenth Amendment, but Brother GOLDBERG, while agreeing with Brother HARLAN, relies also on the Ninth Amendment. I have no doubt that the Connecticut law could be applied in such a way as to abridge freedom of speech and press and therefore violate the First and Fourteenth Amendments. My disagreement with the Court's opinion holding that there is such a violation here is a narrow one, relating to the application of the First Amendment to the facts and circumstances of this particular case. But my disagreement with Brothers HARLAN, WHITE and GOLDBERG is more basic. I think that if properly construed neither the Due Process Clause nor the Ninth Amendment, nor both together, could under any circumstances be a proper basis for invalidating the Connecticut law. I discuss the due process and Ninth Amendment arguments together because on analysis they turn out to be the same thing—merely using different words to claim for this Court and the federal judiciary power to invalidate any legislative act which the judges find irrational, unreasonable or offensive.

The due process argument which my Brothers HARLAN and WHITE adopt here is based, as their opinions indicate, on the premise that this Court is vested with power to invalidate all state laws that it considers to be arbitrary, capricious, unreasonable, or oppressive, or on this Court's belief that a particular state law under scrutiny has no "rational or justifying" purpose, or is offensive to a "sense of fairness and justice." [13] If these formulas based on "natural justice," or others which mean the same thing,[14] are to prevail, they require judges to determine what is or is not constitutional on the basis of their own appraisal of what laws are unwise or unnecessary. The power to make such decisions is of course that of a legislative body. Surely it has to be admitted that no provision of the Constitution specifically gives such blanket power to courts to exercise such a supervisory veto over the wisdom and value of legislative policies and to hold unconstitutional those laws which they believe unwise or dangerous. I readily admit that no legislative body, state or nation, should pass laws that can justly be given any of the invidious labels invoked as constitutional excuses to strike down state laws. But perhaps it is not too much to say that no legislative body ever does pass laws without believing that they will accomplish a sane, rational, wise and justifiable purpose. While I completely subscribe to the holding of *Marbury* v. *Madison*, 1 Cranch 137, and subsequent cases, that our Court has constitutional power to strike down statutes, state or federal, that violate commands of the Federal Constitution, I do not believe that we are granted power by the Due Process Clause or any other constitutional provision or provisions to measure constitutionality by our belief that legislation is arbitrary, capricious or unreasonable, or accomplishes no justifiable purpose, or is offensive to our own notions of "civilized standards of conduct." [15] Such an appraisal of the wisdom of legislation is an attribute of the power to make laws, not of the power to interpret them. The use by federal courts of such a formula or doctrine or whatnot to veto federal or state laws simply takes away from Congress and States the power to make laws based on their own judgment of fairness and wisdom and transfers that power to this Court for ultimate determination—a power which was specifically denied to federal courts by the convention that framed the Constitution.[16]

Of the cases on which my Brothers WHITE and GOLDBERG rely so heavily, undoubtedly the reasoning of two of them supports their result here—as would that of a number of others which they do not bother to name, *e.g., Lochner* v. *New York*, 198 U.S. 45, *Coppage* v. *Kansas*, 236 U.S. 1, *Jay Burns Baking Co.* v. *Bryan*, 264 U.S. 504, and *Adkins* v. *Children's Hospital*, 261 U.S. 525. The two they do cite and quote from, *Meyer* v. *Nebraska*, 262 U.S. 390, and *Pierce* v. *Society of Sisters*, 268 U.S. 510, both were decided in opinions by Mr. Justice McReynolds which elaborated the same natural law due process philosophy found in *Lochner* v. *New York*, *supra*, one of the cases on which he relied in *Meyer*, along with such other long-discredited decisions as. *e.g., Adams* v. *Tanner*, 244 U.S. 590, and *Adkins* v. *Children's Hospital*, *supra*. *Meyer* held unconstitutional, as an "arbitrary" and unreasonable interference with the right of a teacher to carry on his occupation and of parents to hire him, a state law forbidding the teaching of modern foreign languages to young children in the schools.[17] And in *Pierce*, relying principally on *Meyer*, Mr. Justice McReynolds said that a state law requiring that all children attend public schools interfered unconstitutionally with the property rights of private school corporations because it was an "arbitrary, unreasonable and unlawful interference" which threatened "destruction of their business and property." 268 U.S., at 536. Without expressing an opinion as to whether either of those cases reached a correct result in light of our later decisions applying the First Amendment to the States through the Fourteenth,[18] I merely point out that the reasoning stated in *Meyer* and *Pierce* was the same natural law due process philosophy which many later opinions repudiated, and which I cannot accept.

Brothers WHITE and GOLDBERG also cite other cases, such as *NAACP* v. *Button*, 371 U.S. 415, *Shelton* v. *Tucker*, 364 U.S. 479, and *Schneider* v. *State*, 308 U.S. 147, which held that States in regulating conduct could not, consistently with the First Amendment as applied to them by the Fourteenth, pass unnecessarily broad laws which might indirectly infringe on First Amendment freedoms.[19] See *Brotherhood of Railroad Trainmen* v. *Virginia ex rel. Virginia State Bar*, 377 U.S. 1, 7–8.[20] Brothers WHITE and GOLDBERG now apparently would start from this requirement that laws be narrowly drafted so as not to curtail free speech and assembly and extend it limitlessly to require States to justify any law restricting "liberty" as my Brethren define "liberty." This would mean at the very least, I suppose, that every state criminal statute—since it must inevitably curtail "liberty" to some extent—would be suspect, and would have to be justified to this Court.[21]

My Brother GOLDBERG has adopted the recent discovery [22] that the Ninth Amendment as well as the Due Process Clause can be used by this Court as authority to strike down all state legislation which this Court thinks violates "fundamental principles of liberty and justice," or is contrary to the "traditions and [collective] conscience of our people." He also states, without proof satisfactory to me, that in making decisions on this basis judges will not consider "their personal and private notions." One may ask how they can avoid considering them. Our Court certainly has no machinery with which to take a Gallup Poll.[23] And the scientific miracles of this age have not yet produced a gadget which the Court can use to determine what traditions are rooted in the "[collective] conscience of our people." Moreover, one would certainly have to look far beyond the language of the Ninth Amendment [24] to find that the Framers vested in this Court any such awesome veto powers over lawmaking, either by the States or by the Congress. Nor does anything in the history of the Amendment offer any support for such a shocking doctrine.

The whole history of the adoption of the Constitution and Bill of Rights points the other way, and the very material quoted by my Brother GOLDBERG shows that the Ninth Amendment was intended to protect against the idea that "by enumerating particular exceptions to the grant of power" to the Federal Government, "those rights which were not singled out, were intended to be assigned into the hands of the General Government [the United States], and were consequently insecure." [25] That Amendment was passed, not to broaden the powers of this Court or any other department of "the General Government," but, as every student of history knows, to assure the people that the Constitution in all its provisions was intended to limit the Federal Government to the powers granted expressly or by necessary implication. If any broad, unlimited power to hold laws unconstitutional because they offend what this Court conceives to be the "[collective] conscience of our people" is vested in this Court by the Ninth Amendment, the Fourteenth Amendment, or any other provision of the Constitution, it was not given by the Framers, but rather has been bestowed on the Court by the Court. This fact is perhaps responsible for the peculiar phenomenon that for a period of a century and a half no serious suggestion was ever made that the Ninth Amendment, enacted to protect state powers against federal invasion, could be used as a weapon of federal power to prevent state legislatures from passing laws they consider appropriate to govern local affairs. Use of any such broad, unbounded judicial authority would make of this Court's members a day-to-day constitutional convention.

I repeat so as not to be misunderstood that this Court does have power, which it should exercise, to hold laws unconstitutional where they are forbidden by the Federal Constitu-

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tion. My point is that there is no provision of the Constitution which either expressly or impliedly vests power in this Court to sit as a supervisory agency over acts of duly constituted legislative bodies and set aside their laws because of the Court's belief that the legislative policies adopted are unreasonable, unwise, arbitrary, capricious or irrational. The adoption of such a loose, flexible, uncontrolled standard for holding laws unconstitutional, if ever it is finally achieved, will amount to a great unconstitutional shift of power to the courts which I believe and am constrained to say will be bad for the courts and worse for the country. Subjecting federal and state laws to such an unrestrained and unrestrainable judicial control as to the wisdom of legislative enactments would, I fear, jeopardize the separation of governmental powers that the Framers set up and at the same time threaten to take away much of the power of States to govern themselves which the Constitution plainly intended them to have.[26]

I realize that many good and able men have eloquently spoken and written, sometimes in rhapsodical strains, about the duty of this Court to keep the Constitution in tune with the times. The idea is that the Constitution must be changed from time to time and that this Court is charged with a duty to make those changes. For myself, I must with all deference reject that philosophy. The Constitution makers knew the need for change and provided for it. Amendments suggested by the people's elected representatives can be submitted to the people or their selected agents for ratification. That method of change was good for our Fathers, and being somewhat old-fashioned I must add it is good enough for me. And so, I cannot rely on the Due Process Clause or the Ninth Amendment or any mysterious and uncertain natural law concept as a reason for striking down this state law. The Due Process Clause with an "arbitrary and capricious" or "shocking to the conscience" formula was liberally used by this Court to strike down economic legislation in the early decades of this century, threatening, many people thought, the tranquility and stability of the Nation. See, *e.g., Lockner* v. *New York*, 198 U.S. 45. That formula, based on subjective considerations of "natural justice," is no less dangerous when used to enforce this Court's views about personal rights than those about economic rights. I had thought that we had laid that formula, as a means for striking down state legislation, to rest once and for all in cases like *West Coast Hotel Co.* v. *Parrish*, 300 U.S. 379; *Olsen* v. *Nebraska ex rel. Western Reference & Bond Assn.*, 313 U.S. 236, and many other opinions.[27] See also *Lockner* v. *New York*, 198 U.S. 45, 74 (Holmes, J., dissenting).

In *Ferguson* v. *Skrupa*, 372 U.S. 726, 730, this Court two years ago said in an opinion joined by all the Justices but one [28] that—

"The doctrine that prevailed in *Lockner, Coppage, Adkins, Burns*, and like cases—that due process authorizes courts to hold laws unconstitutional when they believe the legislature has acted unwisely—has long since been discarded. We have returned to the original constitutional proposition that courts do not substitute their social and economic beliefs for the judgment of legislative bodies, who are elected to pass laws."

And only six weeks ago, without even bothering to hear argument, this Court overruled *Tyson & Brother* v. *Banton*, 273 U.S. 418, which had held state laws regulating ticket brokers to be a denial of due process of law.[29] *Gold* v. *DiCarlo*, 380 U.S. 520. I find April's holding hard to square with what my concurring Brethren urge today. They would reinstate the *Lockner, Coppage, Adkins, Burns* line of cases, cases from which this Court recoiled after the 1930's, and which had been I thought totally discredited until now. Apparently my Brethren have less quarrel with state economic regulations than former Justices of their persuasion had. But any limitation upon their using the natural law due process philosophy to strike down any state law, dealing with any activity whatever, will obviously be only self-imposed.[30]

In 1798, when this Court was asked to hold another Connecticut law unconstitutional, Justice Iredell said:

"[I]t has been the policy of all the *American* states, which have, individually, framed their state constitutions since the revolution, and of the people of the *United States*, when they framed the Federal Constitution, to define with precision the objects of the legislative power, and to restrain its exercise within marked and settled boundaries. If any act of Congress, or of the Legislature of a state, violates those constitutional provisions, it is unquestionably void; though, I admit, that as the authority to declare it void is of a delicate and awful nature, the Court will never resort to that authority, but in a clear and urgent case. If, on the other hand, the Legislature of the Union, or the Legislature of any member of the Union, shall pass a law, within the general scope of their constitutional power, the Court cannot pronounce it to be void, merely because it is, in their judgment, contrary to the principles of natural justice. The ideas of natural justice are regulated by no fixed standard: the ablest and the purest men have differed upon the subject; and all that the Court could properly say, in such an event, would be, that the Legislature (possessed of an equal right of opinion) had passed an act which, in the opinion of the judges, was inconsistent with the abstract principles of natural justice." *Calder* v. *Bull*, 3 Dall. 386, 399 (emphasis in original).

I would adhere to that constitutional philosophy in passing on this Connecticut law today. I am not persuaded to deviate from the view which I stated in 1947 in *Adamson* v. *California*, 332 U.S. 46, 90–92 (dissenting opinion):

"Since *Marbury* v. *Madison*, 1 Cranch 137, was decided, the practice has been firmly established, for better or worse, that courts can strike down legislative enactments which violate the Constitution. This process, of course, involves interpretation, and since words can have many meanings, interpretation obviously may result in contraction or extension of the original purpose of a constitutional provision, thereby affecting policy. But to pass upon the constitutionality of statutes by looking to the particular standards enumerated in the Bill of Rights and other parts of the Constitution is one thing; to invalidate statutes because of application of 'natural law' deemed to be above and undefined by the Constitution is another. 'In the one instance, courts proceeding within clearly marked constitutional boundaries seek to execute policies written into the Constitution; in the other, they roam at will in the limitless area of their own beliefs as to reasonableness and actually select policies, a responsibility which the Constitution entrusts to the legislative representatives of the people.' *Federal Power Commission* v. *Pipeline Co.*, 315 U.S. 575, 599, 601, n. 4." [31] (Footnotes omitted.)

The late Judge Learned Hand, after emphasizing his view that judges should not use the due process formula suggested in the concurring opinions today or any other formula like it to invalidate legislation offensive to their "personal preferences," [32] made the statement, with which I fully agree, that:

"For myself it would be most irksome to be ruled by a bevy of Platonic Guardians, even if I knew how to choose them, which I assuredly do not." [33]

So far as I am concerned, Connecticut's law as applied here is not forbidden by any provision of the Federal Constitution as that Constitution was written, and I would therefore affirm.

MR. JUSTICE STEWART, whom MR. JUSTICE BLACK joins, dissenting.

Since 1879 Connecticut has had on its books a law which forbids the use of contraceptives by anyone. I think this is an uncommonly silly law. As a practical matter, the law is obviously unenforceable, except in the oblique context of the present case. As a philosophical matter, I believe the use of contraceptives in the relationship of marriage should be left to personal and private choice, based upon each individual's moral, ethical, and religious beliefs. As a matter of social policy, I think professional counsel about methods of birth control should be available to all, so that each individual's choice can be meaningfully made. But we are not asked in this case to say whether we think this law is unwise, or even asinine. We are asked to hold that it violates the United States Constitution. And that I cannot do.

In the course of its opinion the Court refers to no less than six Amendments to the Constitution: the First, the Third, the Fourth, the Fifth, the Ninth, and the Fourteenth. But the Court does not say which of these Amendments, if any, it thinks is infringed by this Connecticut law.

We are told that the Due Process Clause of the Fourteenth Amendment is not, as such, the "guide" in this case. With that much I agree. There is no claim that this law, duly enacted by the Connecticut Legislature, is unconstitutionally vague. There is no claim that the appellants were denied any of the elements of procedural due process at their trial, so as to make their convictions constitutionally invalid. And, as the Court says, the day has long passed since the Due Process Clause was regarded as a proper instrument for determining "the wisdom, need, and propriety" of state laws. Compare *Lochner* v. *New York*, 198 U.S. 45, with *Ferguson* v. *Skrupa*, 372 U.S. 726. My Brothers HARLAN and WHITE to the contrary, "[w]e have returned to the original constitutional proposition that courts do not substitute their social and economic beliefs for the judgment of legislative bodies, who are elected to pass laws." *Ferguson* v. *Skrupa, supra*, at 730.

As to the First, Third, Fourth, and Fifth Amendments, I can find nothing in any of them to invalidate this Connecticut law, even assuming that all those Amendments are fully applicable against the States.[34] It has not even been argued that this is a law "respecting an establishment of religion, or prohibiting the free exercise thereof." [35] And surely, unless the solemn process of constitutional adjudication is to descend to the level of a play on words, there is not involved here any abridgment of "the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." [36] No soldier has been quartered in any house.[37] There has been no search, and no seizure.[38] Nobody has been compelled to be a witness against himself.[39]

The Court also quotes the Ninth Amendment, and my Brother GOLDBERG's concurring opinion relies heavily upon it. But to say that the Ninth Amendment has anything to do with this case is to turn somersaults with history. The Ninth Amendment, like its companion the Tenth, which this Court held "states but a truism that all is retained which has not been surrendered," *United States* v. *Darby*, 312 U.S. 100, 124, was framed by James Madison and adopted by the States simply to make clear that the adoption of the Bill of Rights did not alter the plan that the *Federal* Government was to be a government of express and limited powers, and that all rights and powers not delegated to it were retained by the people and the individual States. Until today no member of this Court has ever suggested that the Ninth Amendment meant anything else, and the idea that a federal court could ever use the Ninth Amendment to annul a law passed by the

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elected representatives of the people of the State of Connecticut would have caused James Madison no little wonder.

What provision of the Constitution, then, does make this state law invalid? The Court says it is the right of privacy "created by several fundamental constitutional guarantees." With all deference, I can find no such general right of privacy in the Bill of Rights, in any other part of the Constitution, or in any case ever before decided by this Court.[10]

At the oral argument in this case we were told that the Connecticut law does not "conform to current community standards." But it is not the function of this Court to decide cases on the basis of community standards. We are here to decide cases "agreeably to the Constitution and laws of the United States." It is the essence of judicial duty to subordinate our own personal views, our own ideas of what legislation is wise and what is not. If, as I should surely hope, the law before us does not reflect the standards of the people of Connecticut, the people of Connecticut can freely exercise their true Ninth and Tenth Amendment rights to persuade their elected representatives to repeal it. That is the constitutional way to take this law off the books.[11]

FOOTNOTES

*The Court said in full about this right of privacy:

"The principles laid down in this opinion [by Lord Camden in *Entick* v. *Carrington*, 19 How. St. Tr. 1029] affect the very essence of constitutional liberty and security. They reach farther than the concrete form of the case then before the court, with its adventitious circumstances; they apply to all invasions on the part of the government and its employes of the sanctity of a man's home and the privacies of life. It is not the breaking of his doors, and the rummaging of his drawers, that constitutes the essence of the offence; but it is the invasion of his indefeasible right of personal security, personal liberty and private property, where that right has never been forfeited by his conviction of some public offence,—it is the invasion of this sacred right which underlies and constitutes the essence of Lord Camden's judgment. Breaking into a house and opening boxes and drawers are circumstances of aggravation; but any forcible and compulsory extortion of a man's own testimony or of his private papers to be used as evidence to convict him of crime or to forfeit his goods, is within the condemnation of that judgment. In this regard the Fourth and Fifth Amendments run almost into each other." 116 U.S., at 630.

[1] My Brother STEWART dissents on the ground that he "can find no . . . general right of privacy in the Bill of Rights, in any other part of the Constitution, or in any case ever before decided by this Court." *Post*, at 530. He would require a more explicit guarantee than the one which the Court derives from several constitutional amendments. This Court, however, has never held that the Bill of Rights or the Fourteenth Amendment protects only those rights that the Constitution specifically mentions by name. See, *e. g.*, *Bolling* v. *Sharpe*, 347 U. S. 497; *Aptheker* v. *Secretary of State*, 378 U. S. 500; *Kent* v. *Dulles*, 357, U. S. 116; *Carrington* v. *Rash*, 380 U. S. 89, 96; *Schware* v. *Board of Bar Examiners*, 353 U.S. 232; *NAACP* v. *Alabama*, 360 U. S. 240; *Pierce* v. *Society of Sisters*, 268 U. S. 510; *Meyer* v. *Nebraska*, 262 U. S. 390. To the contrary, this Court, for example, in *Bolling* v. *Sharpe*, *supra*, while recognizing that the Fifth Amendment does not contain the "explicit safeguard" of an equal protection clause, *id.*, at 499, nevertheless derived an equal protection principle from that Amendment's Due Process Clause. And in *Schware* v. *Board of Bar Examiners*, *supra*, the Court held that the Fourteenth Amendment protects from arbitrary state action the right to pursue an occupation, such as the practice of law.

[2] See, *e. g.*, *Chicago, B. & Q. R. Co.* v. *Chicago*, 166 U. S. 226; *Gitlow* v. *New York*, *supra*; *Cantwell* v. *Connecticut*, 310 U.S. 296; *Wolf* v. *Colorado*, 338 U.S. 25; *Robinson* v. *California*, 370 U. S. 660; *Gideon* v. *Wainwright*, 372 U.S. 335; *Malloy* v. *Hogan*, 378 U. S. 1; *Pointer* v. *Texas*, *supra*; *Griffin* v. *California*, 380 U. S. 609.

[3] Madison himself had previously pointed out the dangers of inaccuracy resulting from the fact that "no language is so copious as to supply words and phrases for every complex idea." The Federalist, No. 37 (Cooke ed. 1961), at 236.

[4] Alexander Hamilton was opposed to a bill of rights on the ground that it was unnecessary because the Federal Government was a government of delegated powers and it was not granted the power to intrude upon fundamental personal rights. The Federalist, No. 84 (Cooke ed. 1961), at 578–579. He also argued,

"I go further, and affirm that bills of rights, in the sense and in the extent in which they are contended for, are not only unnecessary in the proposed constitution, but would even be dangerous. They would contain various exceptions to powers which are not granted; and on this very account, would afford a colourable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why for instance, should it be said, that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed? I will not contend that such a provision would confer a regulating power; but it is evident that it would furnish, to men disposed to usurp, a plausible pretence for claiming that power." *Id.*, at 579.

The Ninth Amendment and the Tenth Amendment, which provides, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," were apparently also designed in part to meet the above-quoted argument of Hamilton.

[5] The Tenth Amendment similarly made clear that the States and the people retained all those powers not expressly delegated to the Federal Government.

[6] This Amendment has been referred to as "The Forgotten Ninth Amendment," in a book with that title by Bennett B. Patterson (1955). Other commentary on the Ninth Amendment includes Redlich, Are There "Certain Rights . . . Retained by the People"? 37 N.Y.U.L. Rev. 787 (1962), and Kelsey, The Ninth Amendment of the Federal Constitution, 11 Ind. L. J. 309 (1936). As far as I am aware, until today this Court has referred to the Ninth Amendment only in *United Public Workers* v. *Mitchell*, 330 U.S. 75, 94–95; *Tennessee Electric Power Co.* v. *TVA*, 306 U.S. 118, 143–144; and *Ashwander* v. *TVA*, 297 U.S. 288, 330–331. See also *Calder* v. *Bull*, 3 Dall. 386, 388; *Loan Assn.* v. *Topeka*, 20 Wall. 655, 662–663.

In *United Public Workers* v. *Mitchell*, *supra*, at 94–95, the Court stated: "We accept appellants' contention that the nature of political rights reserved to the people by the Ninth and Tenth Amendments [is] involved. The right claimed as inviolate may be stated as the right of a citizen to act as a party official or worker to further his own political views. Thus we have a measure of interference by the Hatch Act and the Rules with what otherwise would be the freedom of the civil servant under the First, Ninth and Tenth Amendments. And, if we look upon due process as a guarantee of freedom in those fields, there is a corresponding impairment of that right under the Fifth Amendment."

[7] In light of the tests enunciated in these cases it cannot be said that a judge's responsibility to determine whether a right is basic and fundamental in this sense vests him with unrestricted personal discretion. In fact, a hesitancy to allow too broad a discretion was a substantial reason leading me to conclude in *Pointer* v. *Texas*, *supra*, at 413–414, that those rights absorbed by the Fourteenth Amendment and applied to the States because they are fundamental apply with equal force and to the same extent against both federal and state governments. In *Pointer* I said that the contrary view would require "this Court to make the extremely subjective and excessively discretionary determination as to whether a practice, forbidden the Federal Government by a fundamental constitutional guarantee, is, as viewed in the factual circumstances surrounding each individual case, sufficiently repugnant to the notion of due process as to be forbidden the States." *Id.*, at 413.

[8] *Pointer* v. *Texas*, *supra*, at 413. See also the discussion of my Brother Douglas, *Poe* v. *Ullman*, *supra*, at 517–518 (dissenting opinion).

[9] Indeed, my Brother BLACK, in arguing his thesis, is forced to lay aside a host of cases in which the Court has recognized fundamental rights in the Fourteenth Amendment without specific reliance upon the Bill of Rights. *Post*, p. 512, n. 4.

[10] Dissenting opinions assert that the liberty guaranteed by the Due Process Clause is limited to a guarantee against unduly vague statutes and against procedural unfairness at trial. Under this view the Court is without authority to ascertain whether a challenged statute, or its application, has a permissible purpose and whether the manner of regulation bears a rational or justifying relationship with this purpose. A long line of cases makes very clear that this has not been the view of this Court. *Dent* v. *West Virginia*, 129 U.S. 114; *Jacobson* v. *Massachusetts*, 197 U.S. 11; *Douglas* v. *Noble*, 261 U.S. 165; *Meyer* v. *Nebraska*, 262 U.S. 390; *Pierce* v. *Society of Sisters*, 268 U.S. 510; *Schware* v. *Board of Bar Examiners*, 353 U.S. 232; *Aptheker* v. *Secretary of State*, 378 U.S. 500; *Zemel* v. *Rusk*, 381 U.S. 1.

The traditional due process test was well articulated, and applied, in *Schware* v. *Board of Bar Examiners*, *supra*, a case which placed no reliance on the specific guarantees of the Bill of Rights.

"A State cannot exclude a person from the practice of law or from any other occupation in a manner or for reasons that contravene the Due Process or Equal Protection Clause of the Fourteenth Amendment. *Dent*. v. *West Virginia*, 129 U.S. 114. Cf. *Slochower* v. *Board of Education*, 350 U.S. 551; *Wieman* v. *Updegraff*, 344 U.S. 183. And see *Ex parte Secombe*, 19 How. 9, 13. A State can require high standards of qualification, such as good moral character or proficiency in its law, before it admits an applicant to the bar, but any qualification must have a rational connection with the applicant's fitness or capacity to practice law. *Douglas* v. *Noble*, 261 U.S. 165; *Cummings* v. *Missouri*, 4 Wall. 277, 319–320. Cf. *Nebbia* v. *New York*, 291 U.S. 502. Obviously an applicant could not be excluded merely because he was a Republican or a Negro or a member of a particular church. Even in applying permissible standards, officers of a State cannot exclude an applicant when there is no basis for their finding that he fails to meet these standards, or when their action is invidiously discriminatory." 353 U.S., at 238–239. Cf. *Martin* v. *Walton*, 368 U.S. 25, 26 (DOUGLAS, J., dissenting).

[11] The phrase "right to privacy" appears first to have gained currency from an article written by Messrs. Warren and (later Mr. Justice) Brandeis in 1890 which urged that States should give some form of tort relief to persons whose private affairs were exploited by

others. The Right to Privacy, 4 Harv. L. Rev. 193. Largely as a result of this article, some States have passed statutes creating such a cause of action, and in others state courts have done the same thing by exercising their powers as courts of common law. See generally 41 Am. Jur. 926–927. Thus the Supreme Court of Georgia, in granting a cause of action for damages to a man whose picture had been used in a newspaper advertisement without his consent, said that "A right of privacy in matters purely private is . . . derived from natural law" and that "The conclusion reached by us seems to be . . . thoroughly in accord with natural justice, with the principles of the law of every civilized nation, and especially with the elastic principles of the common law . . . ." *Pavesich* v. *New England Life Ins. Co.*, 122 Ga. 190, 194, 218, 50 S. E. 68, 70, 80. Observing that "the right of privacy . . . presses for recognition here," today this Court, which I did not understand to have power to sit as a court of common law, now appears to be exalting a phrase which Warren and Brandeis used in discussing grounds for tort relief, to the level of a constitutional rule which prevents state legislatures from passing any law deemed by this Court to interfere with "privacy."

[12] Brother HARLAN's views are spelled out at greater length in his dissenting opinion in *Poe* v. *Ullman*, 367 U.S. 497, 539–555.

[13] Indeed, Brother WHITE appears to have gone beyond past pronouncements of the natural law due process theory, which at least said that the Court should exercise this unlimited power to declare state acts unconstitutional with "restraint." He now says that, instead of being presumed constitutional (see *Munn* v. *Illinois*, 94 U.S. 113, 123; compare *Adkins* v. *Children's Hospital*, 261 U.S. 525, 544), the statute here "bears a substantial burden of justification when attacked under the Fourteenth Amendment."

[14] A collection of the catchwords and catch phrases invoked by judges who would strike down under the Fourteenth Amendment laws which offend their notions of natural justice would fill many pages. Thus it has been said that this Court can forbid state action which "shocks the conscience," *Rochin* v. *California*, 342 U.S. 165, 172, sufficiently to "shock itself into the protective arms of the Constitution," *Irvine* v. *California*, 347 U.S. 128, 138 (concurring opinion). It has been urged that States may not run counter to the "decencies of civilized conduct," *Rochin*, *supra*, at 173, or "some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental," *Snyder* v. *Massachusetts*, 291 U.S. 97, 105, or to "those canons of decency and fairness which express the notions of justice of English-speaking peoples," *Malinski* v. *New York*, 324 U.S. 401, 417 (concurring opinion), or to "the community's sense of fair play and decency," *Rochin*, *supra*, at 173. It has been said that we must decide whether a state law is "fair, reasonable and appropriate," or is rather "an unreasonable, unnecessary and arbitrary interference with the right of the individual to his personal liberty or to enter into . . . contracts," *Lochner* v. *New York*, 198 U.S. 45, 56. States, under this philosophy, cannot act "in conflict with deeply rooted feelings of the community," *Haley* v. *Ohio*, 332 U.S. 596, 604 (separate opinion), or with "fundamental notions of fairness and justice," *id.*, 607. See also, *e.g.*, *Wolf* v. *Colorado*, 338 U.S. 25, 27 ("rights . . . basic to our free society"); *Hebert* v. *Louisiana*, 272 U.S. 312, 316 ("fundamental principles of liberty and justice"); *Adkins* v. *Children's Hospital*, 261 U.S. 525, 561 ("arbitrary restraint of . . . liberties"); *Betts* v. *Brady*, 316 U.S. 455, 462 ("denial of fundamental fairness, shocking to the universal sense of justice"); *Poe* v. *Ullman*, 367 U.S. 497, 539 (dissenting opinion) ("intolerable and unjustifiable"). Perhaps the clearest, frankest and briefest explanation of how this due process approach works is the statement in another case handed down today that this Court is to invoke the Due Process Clause to strike down state procedures or laws which it can "not stomach." *Linkletter* v. *Walker*, *post*, p. 618, at 631.

[15] See Hand, The Bill of Rights (1958) 70: "[J]udges are seldom content merely to annul the particular solution before them; they do not, indeed they may not, say that taking all things into consideration, the legislators' solution is too strong for the judicial stomach. On the contrary they wrap up their veto in a protective veil of adjectives such as 'arbitrary,' 'artificial,' 'normal,' 'reasonable,' 'inherent,' 'fundamental,' or 'essential,' whose office usually, though quite innocently, is to disguise what they are doing and impute to it a derivation far more impressive than their personal preferences, which are all that in fact lie behind the decision." See also *Rochin* v. *California*, 342 U.S. 165, 174 (concurring opinion). But see *Linkletter* v. *Walker*, *supra*, n. 4, at 631.

[16] This Court held in *Marbury* v. *Madison*, 1 Cranch 137, that this Court has power to invalidate laws on the ground that they exceed the constitutional power of Congress or violate some specific prohibition of the Constitution. See also *Fletcher* v. *Peck*, 6 Cranch 87. But the Constitutional Convention did on at least two occasions reject proposals which would have given the federal judiciary a part in recommending laws or in vetoing as bad or unwise the legislation passed by the Congress. Edmund Randolph of Virginia proposed that the President

". . . and a convenient number of the National Judiciary, ought to compose a council of revision with authority to examine every act of the National Legislature before it shall operate, & every set of a particular Legislature before a Negative thereon shall be final; and that the dissent of the said Council shall amount to a rejection, unless the Act of the National Legislature be again passed, or that of a particular Legislature be again negatived by [original wording illegible] of the members of each branch." 1 The Records of the Federal Convention of 1787 (Farrand ed. 1911) 21.

In support of a plan of this kind James Wilson of Pennsylvania argued that:

". . . It had been said that the Judges, as expositors of the Laws would have an opportunity of defending their constitutional rights. There was weight in this observation; but this power of the Judges did not go far enough. Laws may be unjust, may be unwise, may be dangerous, may be destructive; and yet not be so unconstitutional as to justify the Judges in refusing to give them effect. Let them have a share in the Revisionary power, and they will have an opportunity of taking notice of these characters of a law, and of counteracting, by the weight of their opinions the improper views of the Legislature." 2 *id.*, at 73.

Nathaniel Gorham of Massachusetts "did not see the advantage of employing the Judges in this way. As Judges they are not to be presumed to possess any peculiar knowledge of the mere policy of public measures." *Ibid.*

Elbridge Gerry of Massachusetts likewise opposed the proposal for a council of revision:

". . . He relied for his part on the Representatives of the people as the guardians of their Rights & interests. It [the proposal] was making the Expositors of the Laws, the Legislators which ought never to be done." *Id.*, at 75.

And at another point:

"Mr. Gerry doubts whether the Judiciary ought to form a part of it [the proposed council of revision], as they will have a sufficient check agst. encroachments on their own department by their exposition of the laws, which involved a power of deciding on their Constitutionality. . . . It was quite foreign from the nature of ye. office to make them judges of the policy of public measures." 1 *Id.*, at 97–98.

Madison supported the proposal on the ground that "a Check [on the legislature] is necessary." *Id.*, at 108. John Dickinson of Delaware opposed it on the ground that "the Judges must interpret the Laws they ought not to be legislators." *Ibid.* The proposal for a council of revision was defeated.

The following proposal was also advanced:

"To assist the President in conducting the Public affairs there shall be a Council of State composed of the following officers—1. The Chief Justice of the Supreme Court, who shall from time to time recommend such alterations of and additions to the laws of the U.S. as may in his opinion be necessary to the due administration of Justice, and such as many promote useful learning and inculcate sound morality throughout the Union . . . ." 2 *id.*, at 342. This proposal too was rejected.

[17] In *Meyer*, in the very same sentence quoted in part by my Brethren in which he asserted that the Due Process Clause gave an abstract and inviolable right "to marry, establish a home and bring up children," Mr. Justice McReynolds also asserted the heretofore discredited doctrine that the Due Process Clause prevented States from interfering with "the right of the individual to contract." 262 U.S. at 399.

[18] Compare *Poe* v. *Ullman*, 367 U. S., at 543–544 (HARLAN, J., dissenting).

[19] The Court has also said that in view of the Fourteenth Amendment's major purpose of eliminating state-enforced racial discrimination, this Court will scrutinize carefully any law embodying a racial classification to make sure that it does not deny equal protection of the laws. See *McLaughlin* v. *Florida*, 379 U.S. 184.

[20] None of the other cases decided in the past 25 years which Brothers WHITE and GOLDBERG cite can justly be read as holding that judges have power to use a natural law due process formula to strike down all state laws which they think are unwise, dangerous, or irrational. *Prince* v. *Massachusetts*, 321 U.S. 158, *upheld* a state law forbidding minors from selling publications on the streets. *Kent* v. *Dulles*, 357 U.S. 116, recognized the power of Congress to restrict travel outside the country so long as it accorded persons the procedural safeguards of due process and did not violate any other specific constitutional provision. *Schware* v. *Board of Bar Examiners*, 353 U.S. 232, held simply that a State could not, consistently with due process, refuse a lawyer a license to practice law on the basis of a finding that he was morally unfit when there was no evidence in the record, 353 U.S., at 246–247, to support such a finding. Compare *Thompson* v. *City of Louisville*, 362 U.S. 199, in which the Court relied in part on *Schware*. See also *Konigsberg* v. *State Bar*, 353 U.S. 252. And *Bolling* v. *Sharpe*, 347 U.S. 497, merely recognized what had been the understanding from the beginning of the country, an understanding shared by many of the draftsmen of the Fourteenth Amendment, that the whole Bill of Rights, including the Due Process Clause of the Fifth Amendment, was a guarantee that all persons would receive equal treatment under the law. Compare *Chambers* v. *Florida*, 309 U.S. 227, 240–241. With one exception, the other modern cases relied on by my Brethren were decided either solely under the Equal Protection Clause of the Fourteenth Amendment or under the First Amendment, made applicable to the States by the Fourteenth, some of the latter group involving the right of association which this Court has held to be a part of the rights of speech, press and assembly guaranteed by the First Amendment. As for *Aptheker* v. *Secretary of State*, 378 U.S. 500, I am com-

pelled to say that if that decision was written or intended to bring about the abrupt and drastic reversal in the course of constitutional adjudication which is now attributed to it, the change was certainly made in a very quiet and unprovocative manner, without any attempt to justify it.

[21] Compare *Adkins* v. *Children's Hospital*, 261 U.S. 525, 568 (Holmes, J., dissenting):

"The earlier decisions upon the same words [the Due Process Clause] in the Fourteenth Amendment began within our memory and went no farther than an unpretentious assertion of the liberty to follow the ordinary callings. Later that innocuous generality was expanded into the dogma, Liberty of Contract. Contract is not specially mentioned in the text that we have to construe. It is merely an example of doing what you want to do, embodied in the word liberty. But pretty much all law consists in forbidding men to do some things that they want to do, and contract is no more exempt from law than other acts."

[22] See Patterson, The Forgotten Ninth Amendment (1955). Mr. Patterson urges that the Ninth Amendment be used to protect unspecified "natural and inalienable rights." P. 4. The Introduction by Roscoe Pound states that "there is a marked revival of natural law ideas throughout the world. Interest in the Ninth Amendment is a symptom of that revival." P. iii.

In Redlich, Are There "Certain Rights . . . Retained by the People"? 37 N.Y.U.L. Rev. 787, Professor Redlich, in advocating reliance on the Ninth and Tenth Amendments to invalidate the Connecticut law before us, frankly states:

"But for one who feels that the marriage relationship should be beyond the reach of a state law forbidding the use of contraceptives, the birth control case poses a troublesome and challenging problem of constitutional interpretation. He may find himself saying, 'The law is unconstitutional—but why?' There are two possible paths to travel in finding the answer. One is to revert to a frankly flexible due process concept even on matters that do not involve specific constitutional prohibitions. The other is to attempt to evolve a new constitutional framework within which to meet this and similar problems which are likely to arise." *Id.*, at 798.

[23] Of course one cannot be oblivious to the fact that Mr. Gallup has already published the results of a poll which he says show that 46% of the people in this country believe schools should teach about birth control. Washington Post, May 21, 1965, p. 2, col. 1. I can hardly believe, however, that Brother GOLDBERG would view 46% of the persons polled as so overwhelming a proportion that this Court may now rely on it to declare that the Connecticut law infringes "fundamental" rights, and overrule the long-standing view of the people of Connecticut expressed through their elected representatives.

[24] U.S. Const., Amend. IX, provides:

"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

[25] 1 Annals of Congress 439. See also II Story, Commentaries on the Constitution of the United States (5th ed. 1891): "This clause was manifestly introduced to prevent any perverse or ingenious misapplication of the well-known maxim, that an affirmation in particular cases implies a negation in all others; and, *e converso*, that a negation in particular cases implies an affirmation in all others. The maxim, rightly understood, is perfectly sound and safe; but it has often been strangely forced from its natural meaning into the support of the most dangerous political heresies." *Id.*, at 651 (footnote omitted).

[26] Justice Holmes in one of his last dissents, written in reply to Mr. Justice McReynolds' opinion for the Court in *Baldwin* v. *Missouri*, 281 U.S. 586, solemnly warned against a due process formula apparently approved by my concurring Brethren today. He said:

"I have not yet adequately expressed the more than anxiety that I feel at the ever increasing scope given to the Fourteenth Amendment in cutting down what I believe to be the constitutional rights of the States. As the decisions now stand, I see hardly any limit but the sky to the invalidating of those rights if they happen to strike a majority of this Court as for any reason undesirable. I cannot believe that the Amendment was intended to give us *carte blanche* to embody our economic or moral beliefs in its prohibitions. Yet I can think of no narrower reason that seems to me to justify the present and the earlier decisions to which I have referred. Of course the words "due process of law," if taken in their literal meaning, have no application to this case; and while it is too late to deny that they have been given a much more extended and artificial signification, still we ought to remember the great caution shown by the Constitution in limiting the power of the States, and should be slow to construe the clause in the Fourteenth Amendment as committing to the Court, with no guide but the Court's own discretion, the validity of whatever laws the States may pass. 281 U.S., at 595. See 2 Holmes-Pollock Letters (Howe ed. 1941) 267–268.

[27] *E.g.*, in *Day-Brite Lighting, Inc.* v. *Missouri*, 342 U.S. 421, 423, this Court held that "Our recent decisions make plain that we do not sit as a superlegislature to weigh the wisdom of legislation nor to decide whether the policy which it expresses offends the public welfare."

Compare *Gardner* v. *Massachusetts*, 305 U.S. 559, which the Court today apparently overrules, which held that a challenge under the Federal Constitution to a state law forbidding the sale or furnishing of contraceptives did not raise a substantial federal question.

[28] Brother HARLAN, who has consistently stated his belief in the power of courts to strike down laws which they consider arbitrary or unreasonable, see, *e.g.*, *Poe* v. *Ullman*, 367 U.S. 497, 539–555 (dissenting opinion), did not join the Court's opinion in *Ferguson* v. *Skrupa*.

[29] Justice Holmes, dissenting in *Tyson*, said:

"I think the proper course is to recognize that a state legislature can do whatever it sees fit to do unless it is restrained by some express prohibition in the Constitution of the United States or of the State, and that Courts should be careful not to extend such prohibitions beyond their obvious meaning by reading into them conceptions of public policy that the particular Court may happen to entertain." 273 U.S., at 446.

[30] Compare *Nicchia* v. *New York*, 254 U.S. 228, 231, upholding a New York dog-licensing statute on the ground that it did not "deprive dog owners of liberty without due process of law." And as I said concurring in *Rochin* v. *California*, 342 U.S. 165, 175, "I believe that faithful adherence to the specific guarantees in the Bill of Rights insures a more permanent protection of individual liberty than that which can be afforded by the nebulous standards" urged by my concurring Brethren today.

[31] *Gideon* v. *Wainwright*, 372 U. S. 335, and similar cases applying specific Bill of Rights provisions to the States do not in my view stand for the proposition that this Court can rely on its own concept of "ordered liberty" or "shocking the conscience" or natural law to decide what laws it will permit state legislatures to enact. *Gideon* in applying to state prosecutions the Sixth Amendment's guarantee of right to counsel followed *Palko* v. *Connecticut*, 302 U. S. 319, which had held that specific provisions of the Bill of Rights, rather than the Bill of Rights as a whole, would be selectively applied to the States. While expressing my own belief (not shared by MR. JUSTICE STEWART) that the provisions of the Bill of Rights were made applicable to the States by the Fourteenth Amendment, in my dissent in *Adamson* v. *California*, 332 U. S. 46, 89, I also said: "If the choice must be between the selective process of the *Palko* decision applying some of the Bill of Rights to the States, or the *Twining* rule applying none of them, I would choose the *Palko* selective process."

Gideon and similar cases merely followed the *Palko* rule, which in *Adamson* I agreed to follow if necessary to make Bill of Rights safeguards applicable to the States. See also *Pointer* v. *Texas*, 380 U. S. 400; *Malloy* v. *Hogan*, 378 U. S. 1.

[32] Hand, The Bill of Rights (1958) 70. See note 5, *supra*. See generally *id.*, at 35–45.

[33] *Id.*, at 73. While Judge Hand condemned as unjustified the invalidation of state laws under the natural law due process formula, see *id.*, at 35–45, he also expressed the view that this Court in a number of cases had gone too far in holding legislation to be in violation of specific guarantees of the Bill of Rights. Although I agree with his criticism of use of the due process formula, I do not agree with all the views he expressed about construing the specific guarantees of the Bill of Rights.

[34] The Amendments in question were, as everyone knows, originally adopted as limitations upon the power of the newly created Federal Government, not as limitations upon the powers of the individual States. But the Court has held that many of the provisions of the first eight amendments are fully embraced by the Fourteenth Amendment as limitations upon state action, and some members of the Court have held the view that the adoption of the Fourteenth Amendment made every provision of the first eight amendments fully applicable against the States. See *Adamson* v. *California*, 332 U.S. 46, 68 (dissenting opinion of MR. JUSTICE BLACK).

[35] U.S. Constitution, Amendment I. To be sure, the injunction contained in the Connecticut statute coincides with the doctrine of certain religious faiths. But if that were enough to invalidate a law under the provisions of the First Amendment relating to religion, then most criminal laws would be invalidated. See, *e.g.*, the Ten Commandments. The Bible, Exodus 20:2–17 (King James).

[36] U.S. Constitution, Amendment I. If all the appellants had done was to advise people that they thought the use of contraceptives was desirable, or even to counsel their use, the appellants would, of course, have a substantial First Amendment claim. But their activities went far beyond mere advocacy. They prescribed specific contraceptive devices and furnished patients with the prescribed contraceptive materials.

[37] U.S. Constitution, Amendment III.

[38] U.S. Constitution, Amendment IV.

[39] U.S. Constitution, Amendment V.

[40] Cases like *Shelton* v. *Tucker*, 364 U.S. 479 and *Bates* v. *Little Rock*, 361 U.S. 516, relied upon in the concurring opinions today, dealt with true First Amendment rights of association and are wholly inapposite here. See also, *e.g.*, *NAACP* v. *Alabama*, 357 U.S. 449; *Edwards* v. *South Carolina*, 372 U.S. 229. Our decision in *McLaughlin* v. *Florida*, 379 U.S. 184, is equally far afield. That case held invalid under the Equal Protection Clause, a state criminal law which discriminated against Negroes.

The Court does not say how far the new constitutional right of privacy announced today extends. See, *e.g.*, Mueller, Legal Regulation of Sexual Conduct, at 127; Ploscowe, Sex and the Law, at 189. I suppose, however, that even after today State can constitutionally still punish at least some offenses which are not committed in public.

[41] See *Reynolds* v. *Sims*, 377 U.S. 533, 562. The Connecticut House of Representatives recently passed a bill (House Bill No. 2462)

repealing the birth control law. The State Senate has apparently not yet acted on the measure, and today is relieved of that responsibility by the Court. New Haven Journal-Courier, Wed., May 19, 1965, p. 1, col. 4, and p. 13, col. 7.

Mr. BAYH. It is the judgment of a lot of the members of the bar who have studied this matter—and I want the RECORD to show that at least this one Senator has studied it—believe that the Griswold case, protecting the rights of privacy of each American citizen, would be adequate grounds to keep separate restroom facilities, separate prison facilities, and separate dormitory facilities, after the equal rights amendment is ratified.

Mr. ERVIN. Mr. President, I have not interrupted the Senator, but I want to ask the Senator a question about the Griswold case.

Mr. BAYH. Please go ahead. I am sure that the Senator from North Carolina would not want to heckle the Senator from Indiana.

Mr. ERVIN. I have not asked a single question until now and I think that is quite a distinction. The only thing the Griswold case holds is that a man and wife have the right of privacy when they are in bed together. Is that not true?

Mr. BAYH. The Griswold case establishes the right of privacy in the specific instance mentioned by the Senator from North Carolina. The Senator from North Carolina has accurately described that. However, if he has read the rest of the case, as I know he has, it is broad enough to cover restroom facilities, and other areas where privacy must be respected.

Mr. ERVIN. It is as the Senator says about Reed against Reed. It only applies to what it applies to.

Mr. BAYH. The Senator is correct. It only applies to what it applies to, but it happens to apply to this, and that is sufficient for the Senator from Indiana.

Another concern expressed by the Senator from Mississippi was with respect to gambling debts, and that a State law which now apparently allows a woman in Mississippi to go into court to sue for recovery of her husband's gambling debts would be struck down. I submit that would not necessarily be the case. A husband or wife would have the same legal remedy against some skinflint who had managed to secure the salary or the wallet of one of the marriage partners.

Pensions for police widows I touched on a moment ago. We are saying that a widow or widower of a policeman would have equal access to pensions. It could not be said if a man who was a policeman and has been killed that his wife gets benefits, but if the woman has been the policeman, the husband could not get benefits. Each partner in the marriage would have to be treated equally on the merits.

Custody, child support, alimony—strike them down? Ridiculous. This would require not that we eliminate child support, and not that we eliminate child custody or alimony, but that any judge would have to consider the case on its merits. If the father were better able to provide support for the child the father would provide the support for the child, and if the mother were better able to provide support for the child she would provide the support for the child. In some instances perhaps both would provide support for the child.

Also, as far as custody of the child is concerned, does anyone in this body suggest that every mother in a divorce settlement is absolutely better qualified to care for the child? Nobody would make that ridiculous assertion. We would require that the judge would be required to determine which of the parents was better able to deal with the needs of the child and make that judgment on the merits and not on some age-old stereotype conclusion.

Let me turn to family relations and the institution of marriage. A moment ago when the Senator from North Carolina and I were about to embark on a discussion the question of marriage and the sexual relationship between men and women was brought before the Senate. I certainly hope that on reflection the Senator from North Carolina, when he has had a chance to read the RECORD, will not feel that his friend from Indiana was heckling him but was trying to get him to answer a question that I think he is imminently well qualified to answer. Indeed, if there was a misinterpretation of my motives, I want the RECORD to be very clear.

The equal rights amendment would not prohibit a State from saying that the institution of marriage would be prohibited to men partners. It would not prohibit a State from saying the institution of marriage would be prohibited to women partners. All it says is that if a State legislature makes a judgment that it is wrong for a man to marry a man, then it must say it is wrong for a woman to marry a woman—or if a State says it is wrong for a woman to marry a woman, then it must say that it is wrong for a man to marry a man.

Then, there is the old bugaboo of homosexuality. The Senator from North Carolina would not answer the question I posed a moment ago and that question was: Yes, you have sodomy, lesbianism, and a number of very—how do I describe it—suspicious and unacceptable sounding words, that are used to describe various types of homosexual acts. I do not pretend to be an expert in homosexuality. I have had absolutely no personal experience and I do not intend to gain any. I have done little reading about it. It does not pertain to me at all.

But the equal rights amendment does not prohibit a State from saying it shall be against the law of the State for any citizens therein to participate in a homosexual act—period. What the equal rights amendment does prohibit is for a State to say that if women participate in homosexuality, that is bad, but if men participate in homosexuality, that is all right. I do not think this requirement is anything but equity. If we are going to outlaw homosexuality, that is all right with me, and let us make it across the board. That is what I was trying to elicit from the Senator from North Carolina.

Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. BYRD of Virginia). The Senator from Indiana has 36 minutes remaining.

Mr. BAYH. I thank the Chair.

I would now like to deal with the specific amendment which is before us. I felt it important to lay a foundation for the specific discussion of the amendment in question inasmuch as the Senator from Mississippi had raised a lot of other issues which I think were relevant to the overall discussion, but not relevant or pertinent to the discussion of the specific amendment before us.

The Senator from Mississippi is one of the leading and acknowledged experts in this body in the area of the military and the armed services. I wish that he had directed more of his discussion to the impact this amendment would have on the military. In the minutes that remain to me in opposition to the amendment I want to deal with my reasons for opposing the amendment proposed by the Senator from North Carolina which states:

> This article shall not impair, however, the validity of any laws of the United States or any State which exempts women from compulsory military service or service in combat units of the Armed Forces.

Mr. ERVIN. Mr. President, for the information of the Senator, that is not the amendment pending. The amendment pending provides that the article shall not invalidate any laws which exempt women from compulsion of the draft.

Mr. BAYH. Mr. President, I ask unanimous consent that the clerk may read the amendment and that it may be substituted for my preceding words.

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

The assistant legislative clerk read as follows:

> At the end of section 1 add the following sentence:
>
> This article shall not impair, however, the validity of any laws of the United States or any State which exempts women from compulsory military service.

Mr. BAYH. I thank the Senator from North Carolina for clarifying this matter.

In the judgment of the Senator from Indiana, who has been involved in the equal rights debate for a long, long time, the issue which is now joined is one of the most difficult with which to deal. I must say I share the concern of every Member of this body that the impact of this amendment and its relationship to the military will not be the kind of impact that will turn mothers away from their children or irreparably damage lives or home life. I can see how Members of this body can have a different opinion on this amendment. But I think it is important for us to consider its impact, or perhaps I should say the impact of the equal rights amendment on women in the military on the basis of the facts as they are now and as they are liable to be reasonably in the future, and not permit us to be deterred from a study of the facts by establishing straw men, by which we are led to believe that, if this equal rights amendment passes, every mother is going to be dragged, kicking and screaming from the cradle of her child.

This assertion, in the judgment of the Senator from Indiana, is a bit farfetched, to be kind.

Let us look at the entire picture of the military in the involvement of women

and in the involvement of women if the equal rights amendment passes. First of all, in the very near future, we are going to be facing that type of military situation, I hope and pray, that has confronted our country throughout most of its history: namely, we will no longer have a war; thus, we will no longer have a draft. And, if there is no war and no draft, there are not going to be any women, mothers, whoever they may be, whatever their capacity in life, either being drafted or sent into combat.

Second, given a situation of a continuation of hostilities—which I hope will not be long, but given a situation in which we have sent citizens of this country into battle, to perhaps give their lives—there has been a great move in this body to increase the number in the military, if not all members of the military, to be a part of a volunteer service. Then the question has to be asked, well, if a woman wants to volunteer, should she be treated differently from a man?

By the words spoken by the Senator from Mississippi a while ago in his remarks, he suggested that WACS and WAVES and nurses that are now in the military are subjected to the hazards of actual combat, but that that is a different situation from actually drafting women against their normal will and forcing them into the military.

Let us look more specifically at the draft. No peace exists. A combat situation exists where we are not able to supply the manpower needs—and I use the word "manpower" advisedly—by voluntary means. What would be the role of the women of this country?

First of all, I think the role of the women of this country would be the same as the role of the men of this country traditionally throughout the years, inasmuch as Congress has traditionally established and allowed a number of exemptions in which, if a man qualifies, he can claim that exemption and he does not have to go.

The equal rights amendment requires that those exemptions would have to be sex-neutral exemptions rather than those that apply to one sex.

What type of exemptions are you talking about, Senator BAYH? Well, it is entirely possible that Congress would establish an exemption in which any parent could be exempted from the draft. Ridiculous, you say? Well, throughout most of the 1950's and 1960's this is exactly an exemption that applied to men and women—it did not apply to women, because they were not subject to the draft, but it did apply to every man. Any father was exempted. So that exemption could exist under the equal rights amendment. Any parent, mother or father, could claim that exemption and not be subjected to the draft.

Congress could also provide that the parent who has the primary duty of rearing the children or caring for the home would be exempt. In the judgment of the Senator from Indiana, this would be perfectly constitutional under the equal rights amendment. Congress would be excluding the parent there, whether it be mother or father; but, indeed, we can look around at most of the homes around the country, and in some of these homes, the wife is the primary wage earner, but in most homes the father is the primary wage earner and the mother has the primary responsibility for rearing the children and taking care of the house, and she could claim this sex-neutral exemption.

Congress could take a further look and provide that no more than one parent in any family would be subject to conscription.

Then, let us move past the exemptions. Let us look at those who are not able to claim an exemption and those who are subject to the draft. What size burden are we really talking about? Does every 17-, 18-, or 19-, or 22-year-old woman feel that she is going to be drafted?

Let us look at the facts as they are today as far as men are concerned. Let us take the 1971 draft call, the most recent draft call. There were, in 1971, 1.9 million men in this country eligible for the draft; 50.5 percent, or over half of those, were rejected for induction for one reason or another; 24.9 percent were rejected at induction.

So when we get right down to it, less than 25 percent of the men of this country were ever subjected to the draft in the first place. That number was between 400,000 and 500,000. Of this almost 500,000-man pool of men subjected to the draft after the various rejections, only 98,000 were ever called, and only 94,000 of those were ever inducted.

In other words, 5 percent of the eligible males in the country were inducted into the Army last year. Less than 15 percent—and I wish the Senator from Mississippi were here to verify this, because we are concerned about combat—out of that pool of 5 percent, almost 2 million men were assigned to combat branches. That means that less than 1 percent of the eligible males in the whole country that were ever assigned to a combat unit.

It might be fair to say that is about the same risk women would be subjected to, except it would be fairer to assume that the sex-neutral standards that would be established by the Armed Forces on the basis of physical competence would exclude an even greater percentage of women because of the ordinary physical standards required, such as pushups, chins, running, and other physical and combat characteristics that are necessary for any member of the armed services.

Now, of this less than 1 percent—and if you look at all of the physical rejections that could occur, you would get down to significantly less than 1 percent of all the women in the pool who would be drafted in the first place—would they be assigned to combat duty?

Admittedly, there is no way we can guarantee they would not be, but in the judgment of the Senator from Indiana, they would be assigned to duty as their commanders thought they were qualified to serve. Just as 85 percent of those who are now in the armed services and who are men are not assigned to combat duties, so the commander would not need to send a woman into the front trenches if he felt that it would not be in the best interests of the combat unit to make such an assignment.

I want to suggest that I hope the time will not come when we have women drafted and sent into combat. I hope the time will not come when they are drafted, very frankly. But I suggest that right now we have a significant number of women in all of our military services who are serving with distinction, and many of them are serving in combat zones. You ask a nurse serving in an Army hospital in Danang whether she is in a combat zone or not, and whether she might be spirited away or detained by the V.C., and I am sure she will tell you that is something she has thought about.

If we look at the kind of confrontation which may develop, God forbid, if we ever get involved in a nuclear exchange, then find me a noncombat zone, for I think that is where most of us would want to be.

I think the experience of other nations which have conscripted women might be of help in our deliberations on this subject. I have looked at this situation in Israel. I am sure many people may feel that Israeli women, having been conscripted, are sent into combat. That is really not the case. Women who are conscripted are given combat training, and why should they not be, in the event their position is attacked. But those women are not sent into combat areas, and the Senator from Indiana suggests that with very few exceptions that would be the case here if the equal rights amendment passes.

At this time, I ask unanimous consent to have printed in the RECORD a letter addressed to me from Col. Stella Levy, a military attaché to the Israeli Embassy, describing in more detail the condition which actually exists with respect to women in the armed services of Israel.

Although, as I said a moment ago, I personally hope that few women will be drafted and none will be forced to be sent into combat, I must say in all sincerity that if their country needs them, I see no alternative but to require their services. Reduced to that simple equation, I think most women would say, "Count me in if my country needs me."

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

EMBASSY OF ISRAEL,
Washington, D.C., January 20, 1972.

The Honorable BIRCH BAYH,
Chairman, Committee on the Judiciary, Subcommittee on Constitutional Amendments, Washington, D.C.

DEAR SENATOR BAYH: Thank you for your letter of January 17, 1972 in which you request information concerning the "Chen" Women's Army Corps of Israel.

I hope that the following information will answer your questions:

(1) Israeli girls are recruited into the I.D.F. (Israel Defense Forces) just as men, by power of the Law of Military Service. According to this law, every girl upon reaching the age of eighteen, must report for 20 months of compulsory military service. After which she remains liable for reserve duty, even as a married woman, up to the age of 34 or until she becomes a mother. Officers and N.C.O.s can pursue a career in the Army even after marriage and childbirth.

The requirements are different for women as far as education is concerned. *Every* man is drafted, regardless of education, while

women are drafted only after high school or primary school education plus two more years of school at least.

The exemptions available to women are based on religious, health or social welfare reasons.

(2) The women are not given the same combat training as men. In basic training, a girl must learn to use various types of light weapons, so as to be able to operate them in case of need, even if only in self-defense. This knowledge of weapons is essential, both during service when serving in combat units as well as later on, particularly since a fair number of "Chen" girls join units in border settlements.

(3) The girls are assigned to combat units, but when this is done, they fill non-combatant posts. Usually, after a five-week basic training course, the girls are posted to the different units of the Army, Navy and Air Force.

(4) Women are not required to engage in physical combat when the armed forces engage an enemy. They are mainly engaged in the performances of auxiliary tasks such as: clerical, communication and electronics, driving, nursing, etc. They follow up the units after combat has ended.

(5) Men and women have always fought side by side in Israel, so actually there are no significant difficulties which arise from this situation. In each unit the girls maintain separate and independent facilities. Service conditions of "Chen" girls are identical to those of the men—the monthly pay is based on rank, as applies to everybody serving in the I.D.F., whether in compulsory service or in the regular army. Direct command over groups of girl-soldiers in each unit is in the hands of the "Chen" unit officers, who are subordinate to Command or Corps Officers, and who are assisted by N.C.O.s. The "Chen" staff constitutes the only legal jurisdiction over girls serving in the Army.

I hope that in giving you this information I have been of some assistance.

In Hebrew, the word "Chen" means "charm".

Sincerely,

Col. STELLA LEVY,
Attaché for Women's Affairs.

Mr. BAYH. I suggest we are not talking about just a one-way street. In passing an equal rights amendment and thus raising the possibility that some of the women of this country are going to be drafted into the armed services, we are not just talking about a pure sacrifice on the part of the women. We are talking about a sacrifice; yes. We are talking about a responsibility; yes. But we are also talking about a significant benefit to be derived as a result of this service for the country.

I suggest that right now we are operating under a very unfortunate dual system, in which everyone admits that women volunteer and no one can deny that numbers of them now serve in combat zones but the quality and the criteria that must be met by a woman to gain admission to the armed services are different than those for a man. Even if a woman wants to volunteer today, she has to meet a higher standard.

We permit men to volunteer at age 17. A woman cannot volunteer until she reaches 18, despite the fact that most people believe that a woman matures significantly in advance of a man.

A woman, before she is even considered in our services today, must have a high school diploma. That is not true for a man. So the first impact of this equal rights amendment as far as the military services are concerned would be to say that any woman who wants to serve her country will have the same opportunity to do so, and will be either admitted or denied admission on the basis of the same grounds used to admit or deny men.

I want to look at what this means, because there are significant benefits that are denied to women of this country because of the way that they are denied equal access to the military services, either voluntarily or by conscription.

The GI educational bill which has provided the greatest reservoir of talent that this country has ever known, is the first example that comes to mind. This talent has been primarily limited to men, because the services have been primarily limited to men. I wonder how many young women would make the same choice that the Senator from Indiana and many other young men made. When trying to weigh whether I should volunteer or not, one of the things I considered was not only what I could do in the Army, but that if I went in the Army and served my country for a certain period of time, it would permit me, on my own self-reliance, to provide an educational opportunity for myself. Most young women in this country do not have that choice today. This amendment would give them that choice.

It would also give them the benefit of GI loans for homes, farms, and businesses. There are hundreds of thousands, in fact millions of our citizens today who finance the purchasing of a farm, a home, or a business, not because they have any unique talent, but because they have had the opportunity to serve in the U.S. Armed Forces. We do not make this financial capacity available to young women who may want to take advantage of it as well.

GI life insurance is another benefit that is gained if you serve in the Armed Forces. We would make the same benefit available to women. Veterans' mortgage insurance, up to a $30,000 guarantee on a mortgage, would be made available to young women as well as young men, as would nonservice-connected death benefits.

Perhaps the most insidious type of discrimination that results because of the way our Army is treated today is in the employment area. If you are a veteran, the Veterans' Administration seeks to assist you in seeking employment. There are a number of job opportunities, on-the-job apprentice training, and other tools provided. We know that there are certain types of employment by our U.S. Government where, if you are a man and you have been in the military, you get X number of points added to your score, to get the job over someone who may be a woman and has never been a veteran, even if that woman is smarter than you are and gets a higher score on the intellectual part of the test. By the time you add those points for service to your country, the woman goes to the bottom of the list.

What we are saying is not that this is bad. If persons serve their country, give them the extra points. They earned them. But make this opportunity available on an equal basis to the young women of this country. To suggest that this is all a one-way street, I think, is to suggest something that really is not borne out by the facts.

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. Mr. President, the distinguished Senator from Indiana said that he hoped that women would never be drafted. There is one way he could make his hope a certainty, and that it is by voting for the amendment which I have offered, which exempts women from compulsory military service.

The way I see this amendment, I do not want any Senator to vote for the amendment I have offered unless he believes in his heart that women should not be drafted and sent into combat, where they will be slaughtered or maimed by the bayonets, the bombs, the bullets, the grenades, the mines, the napalm, the poison gas, or the shells of the enemy.

I say, furthermore, that every Senator who believes that women ought to be drafted and ought to be sent into combat, where they will be slaughtered or maimed by the bayonets, the bombs, the bullets, the handgrenades, the mines, the napalm, the poison gas, and the shells of the enemy, ought to vote against my amendment. Any Senator who hopes that women never will be drafted ought to vote for my amendment, if he honestly and sincerely hopes that women will never be drafted.

Now, as a matter of law, Congress has the power to draft women. Congress has the power now to provide that women can be enlisted for service in combat. I would suggest that any Senator who favors the equal rights amendment because it requires that women be drafted or because it requires that women be sent into combat ought to practice what he preaches and introduce a bill to provide for the drafting of women and the sending of women into combat. But a Senator ought not support an amendment which robs Congress of the power to exercise any discretion in this field.

If the equal rights amendment becomes law, it will put Congress in a straitjacket and will say to Congress, "You cannot draft anybody or send anybody into combat against an enemy unless you draft men and women alike and send them into combat under exactly the same conditions."

Frankly, I do not think that any man who has been subjected to combat in the armed services is in favor of drafting the daughters of America and subjecting them to the experience which combat gives to men.

I had the privilege of serving in a division which suffered 5,000 casualties in battle and suffered 20,000 casualties in wounds. I had the privilege of serving in a company which suffered 96 battle deaths and had only two men who served with it any length of time who were not killed or wounded.

I have seen the bodies of mortal casualties lying upon the field of battle many hours after they had suffered

death in battle, and have witnessed the beginning of the putrefying process which the bodies of the dead go through in returning to dust. I have seen bodies of my comrades mangled and their limbs torn asunder.

I agree with the Senator from Indiana that if absolute necessity should require that women fight a foreign foe in order that our country not be destroyed, I could be reconciled to it. But as long as my country has a total population of more than 200 million and as long as it has the millions of young men who are able to fight for my country, I shall adamantly oppose any proposal that the Congress of the United States be deprived of the power to provide for the drafting of men unless it drafts women under exactly the same conditions.

I am going to talk about the privacy question later, when I offer an amendment on that subject. At that time, I expect to show that the supporters of this amendment do not know what its effect will be on the privacy of men and women and boys and girls.

The distinguished Senator from Indiana cited the case of Griswold against Connecticut. The only thing that the case of Griswold against Connecticut decided is that when a man and his wife are in bed together and desire to engage in sexual relations, a State cannot make their use of a contraceptive a crime. The case of Griswold against Connecticut has nothing whatever to do with the question of whether a constitutional amendment which prohibits any and all distinctions between men and women by law on the basis of sex would invalidate Federal and State laws which require separate rest rooms for the sexes in public buildings, or Federal and State laws which require separate rest rooms for boys and girls in public schools, or Federal and State laws which require the imprisonment of men and women in separate jail cells.

My good friend from Indiana made a great speech in favor of abolishing all the protections which the laws of this Nation now place around women who do work which is not entirely intellectual in nature. The strange thing about it is that virtually every one of the organizations which represent those women are opposed to the equal rights amendment. I have stated on several occasions during the course of this debate that my finite intellectual strength does not enable me to comprehend why business and professional women—and this does not apply to all business and professional women by any means—but why business and professional women, whose work is solely intellectual, wish to have a constitutional amendment adopted which will rob their sisters, who do work which is not entirely intellectual, of the protections which the laws throws around them against their will.

Another thing that I cannot understand about the demands of the militant members of the Women's Lib is this: There are 32,975,000 women in this Nation—44.1 percent, who are either working or are seeking work outside their home. Only a small fragment of that 32,975,000 women are business and professional women.

Why does this organization of business and professional women seek to rob the bulk of the 32,975,000 women of the protections which the organizations that represent these business and professional women find they need?

That is strange enough to comprehend, but there is something stranger than that: Why do a few—and I say a relatively few—business and professional women desire to rob, by this constitutional amendment, 41,715,000 women—55.9 percent, of all the women age 16 and upward in this country of the laws which give them protection?

Most of these 41,715,000 women elect to become wives and mothers. The overwhelming majority of the other 32,975,000 women also elect to become wives and mothers.

The proponents of this equal rights amendment shed actual or political or crocodile tears over the plight of married women, over the plight of mothers. But their actual or their political or their crocodile tears do not dampen in the slightest their desire to rob these women of their protections which the law now declares that a husband has the primary responsibility for supporting the wife and that the father has the prime responsibility for supporting the children of his marriage.

The supporters of this amendment say—and they say quite rightly—that the equal rights amendment will invalidate those laws because it makes a distinction between fathers and mothers and husbands and wives on the basis of sex. They also say that their objection in invalidating these laws is to put identically the same responsibility on the wife to support the husband that the law now puts upon the husband to support the wife, and the identical responsibility to support the children on the mother that the law now puts upon the father.

Mr. President, talk about congestion in the courts. Talk about confusion in litigation. There is nothing more calculated to produce such a confusion in litigation than a law which would require, in every case where a wife is denied adequate support by her husband, the court and jury to go into the question of whether the wife is qualified to be a better breadwinner than the husband, or vice versa; or in every case where little children are denied food, clothing, and shelter, that the court and the jury must go into the question of whether the father or the mother of those children is better qualified to furnish those children with food, clothing, and shelter.

Millions of American women are not business and professional women. Millions of American women are not trained to go outside the home to earn a living. In fact, 55.9 percent do not do so or attempt to do so. They stand before a clerk in their youth and are joined in marriage to their husbands. They become the mothers of children who require their care and require that they be given nurture and education in order that they may survive and be trained intellectually and spiritually.

After these duties which they have assumed and which, in my judgment, nature and God impose upon them, have been performed and they have become eligible to go out in the world and try to earn a living, at a time when it is too late for them to do so, and when they become widows without any means of earning a livelihood themselves, and oftentimes without any property to sustain them in their declining years, the advocates of this amendment propose that these widows be robbed of their dower rights in the property of their husbands and be denied a widow's allowance from the estates of their husbands, all for the sake of gratifying the demands of a few business and professional women who think that God made a serious mistake when he created two sexes instead of one and that the only way to correct God's mistake in this respect is to adopt a constitutional amendment which will say that every law passed by Congress in times past and every law passed by every one of the 50 legislative bodies in the country in times past that make any distinction between the legal and the constitutional rights of men and women should be nullified.

The PRESIDING OFFICER. The time of the Senator on the amendment has expired.

Mr. ERVIN. Mr. President, I yield myself 3 minutes on the bill.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for an additional 3 minutes.

Mr. ERVIN. Mr. President, in addition to that, they say that the Congress of the United States and the legislatures of the 50 States shall be robbed forever of the power to take into consideration the fact that God created mankind male and female when they enact a single piece of legislation.

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

The yeas and nays were ordered.

Mr. PERCY. Mr. President, will the manager of the bill yield me 3 minutes?

Mr. BAYH. Mr. President, I am glad to yield 3 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The senior Senator from Illinois is recognized for 3 minutes.

Mr. PERCY. Mr. President, I support the proposed constitutional amendment to provide equal rights for men and women as provided in House Joint Resolution 208. The pending amendment to the resolution exempting women from the draft is one which I must vigorously oppose, however. It is, in my view, an attempt simply to defeat the basic amendment to the Constitution guaranteeing equal rights to men and women in this country.

I do feel very strongly that if women want equal rights, and I believe they do, then they should have full rights as well as responsibilities. There should be no attempt to exempt them, such as is now being proposed, from military service.

There are numerous jobs in the military service that women are highly qualified to perform and in that manner to relieve men for other jobs on the fighting front, for which they may be better qualified. I would point out that I have seen women in the armed forces of the State of Israel perform many jobs with tremendous effectiveness.

I tend to think in talking with the Israeli women who have served in the national forces that they have experienced a sense of exhileration in being a part of the defense of their country. They are under constant and steady threat of attack. They feel that it is their country, too, and that it is not a sacrifice to give their lives if necessary to the country.

I have testified and have mentioned on the floor of the Senate before my personal belief, as a result of talking to some of these women and having them describe to me the kind of duties they have performed, that they are proud of having performed their duty in the national interest and have fulfilled their own interests as a full citizen in the society.

I vigorously oppose the pending amendment for that reason.

Mr. BAYH. Mr. President, I yield 2 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I support the Senator from Indiana in his effort to have the constitutional amendment passed by the Senate, and I shall support him fully in his efforts to secure passage of this important constitutional amendment.

Mr. BAYH. Mr. President, I yield myself 2 minutes

The PRESIDING OFFICER. The Senator from Indiana is recognized for 2 minutes.

Mr. BAYH. Mr. President, I appreciate the support of the Senator from New York and the Senator from Illinois. I think this matter has been debated rather fully. There are at the present time differences of opinion as to the effect of this matter. I think I pretty well expressed the position of the opposition a moment ago, and I see no reason to expand on it.

Mr. President, just a brief word in summary. Suffice it to say that even if the worst protestations of the supporters of the amendment were to come true, we are talking about the extremely small percentage of women in this country who would be drafted, and a significantly smaller percentage that would ever reach combat service. It is the prediction of the Senator from Indiana that there is an extremely small likelihood that any will really reach combat service. A number of women today are serving in combat-related environments and the amendment would not affect this.

We would require not only that women would be treated equally as far as responsibilities are concerned, but we are talking about the draft and the responsibility a citizen has to his country. We have discussed this at length.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. BAYH. Mr. President, let the spirit move me 1 additional minute.

I want to reemphasize the other side of that equation: Not just the responsibility but also the right. I emphasize that by pointing out, because of rights gained on the part of servicemen, primarily, serving their country, 12,769,200 veterans have used the various educational programs resulting from service to their country. There have been 7,781,837 veterans who have taken advantage of the various GI loans and GI financial benefits. The total value of GI loans resulting from military service is $82,380,601,000. To be specific, 13,563,000 veterans have been treated by various medical services.

So at the same time we are talking about the hardship, the responsibility that would be imposed on the young women of this country, that very infinitesimally small percentage that would go through the screening process, we are also talking about a specific right they would earn.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BAYH. I yield myself 1 additional minute.

Mr. President, we are talking about the large number of women who would like to volunteer on an equal basis, and we are giving them the opportunity to take advantage of this significant group of rights that have been given by Congress to any citizen who serves his or her country in the military.

The Senator from Indiana is prepared to yield back his time, and does so.

Mr. PEARSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. ERVIN. I object to a quorum call on my time.

The PRESIDING OFFICER. On whose time is the quorum call to be charged?

Mr. ERVIN. I do not object to the quorum call being charged against neither side.

Mr. BAYH. How about charging it against both sides.

Mr. ERVIN. Neither side.

Mr. PEARSON. Mr. President, I ask unanimous consent that there be a quorum call with the time charged against neither side.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PEARSON. 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. GURNEY. Mr. President, as a cosponsor of this legislation and as a member of the Senate Judiciary Committee which has reported it favorably, I would like to take this opportunity to make a few comments about the need for an Equal Rights Amendment.

Without belaboring the history of this legislation—and it is lengthy—I would simply remind my colleagues that an Equal Rights Amendment has been before Congress for almost half a century. This year, the amendment passed the House by a huge margin and is being cosponsored by a majority of the members of the Senate. It has been endorsed by four Presidents; it has been recommended by both the Citizens Advisory Council on the Status of Women and the President's Task Force on Women's Rights; it has the support of numerous constitutional authorities, and its passage has been urged by a wide range of national organizations and groups. Equal rights for women have been thoroughly discussed in the press and in the House and Senate; congressional hearings have resulted in reams of testimony. But, regrettably, we have yet to pass an enabling amendment. Given all the years of debate, it might well be said of this issue that never have so many said so much and accomplished so little.

Essentially, the legal status of women has changed very little since the adoption of the 19th amendment in 1920. Certainly there is no denying the fact that women are still—and in some cases increasingly—subject to discrimination in many phases of everyday life. This is particularly true in the areas of legal rights, education, and employment. I emphasize these three areas because, over the years, there has been a subtle but steady change in our social fabric. Call it what you will—progress, social change or whatever—but it all adds up to a sort of credo of individual rights. We have been striving, as a Nation, to assure every citizen an equal opportunity to get an education to obtain employment, and to be protected against injustice. But we still have a big step left to take.

In the movement toward social liberation, we have taken on the task of improving the status of blacks, Indians, Spanish-speaking Americans, and other minority groups, but, in the process, we have overlooked another important group that has suffered from many forms of discrimination—women—which is all the more amazing because they are a majority rather than a minority group. According to the 1970 census, 51.3 percent of the people of this Nation are women, but we have yet to accord them the same rights our male citizens enjoy. Traditional attitudes which, all too often, have relegated American women to subordinate or inferior roles, do not die easily. Thus, a situation has evolved that has been aptly described in the April 1971 issue of the Yale Law Journal, as follows:

> In the present legal structure, some laws exclude women from legal rights, opportunities, or responsibilities. Some are framed as legislation conferring special benefits, or protection, on women. Others create or perpetuate a separate legal status without indicating on their face whether the position of women ranks below, or above, the position of men. Many of the efforts to create a separate legal status for women stem from a good faith attempt to advance the interests of women. Nevertheless, the preponderant effect has been to buttress the social and economic subordination of women.

Equality before the law is one of our cherished beliefs, yet many States still have statutes which provide different sentences for the same crime, depending on the sex of the offender. Passage of our equal rights amendment would eliminate the obvious inequities here without necessarily sacrificing those laws which protect women on the basis of a specific physical difference. States will have the option—and this is the reason for the 2-year delay in implementation of the amendment after its ratification—of either wiping out laws that "protect" women or extending their benefits to everybody.

With regard to domestic relations and property rights passage of an equal

rights amendment will mean that certain laws will have to be revised. New legislation will more properly focus on the individual needs of a person in a particular situation rather than the sex factor which through tradition, have been incorporated into our statutes. Such changes will insure men and women more equitable treatment; in the case of divorce proceedings, for example, compensation to both would be based on the capability of either the man or woman to support himself or herself and not on the simple fact of sex as has so often been the case in the past.

Moving on to another area, let us look at education for a moment. Public education, an integral part of our American heritage, has also inherited a tradition of sex discrimination. This is particularly true in the admissions policies of some schools and in the practice of faculty hiring. Female applicants to colleges and universities are often required to have a higher scholastic average than their male counterparts, and in some cases they may not be eligible to participate in the full scholastic program. It is not just by accident that only 38 percent of the women between 18 and 24 go to college, as compared to a 60-percent ratio for men.

The disparity becomes even more noticeable in the area of graduate and professional study. During the 1968–69 school year, women earned 37 percent of all masters degrees but only 13 percent of the Ph. D.'s and only 4 percent of all professional degrees. Naturally, these statistics must be tempered by the fact that not all women may have sought the higher degree. But the fact remains that graduate and professional schools have consistently been more receptive to men than to women.

And when we look at the educators instead of those being educated, much the same pattern emerges. While 75 percent of all elementary school teachers are women, only 22 percent of the elementary school and only 4 percent of the high school principals are women. In short, women are simply not getting the chance to perform in any administrative or managerical capacities because these positions have traditionally been reserved for men.

One of the main thrusts of the equal rights amendment will be to assure that discriminatory admissions policies, faculty hiring practices, and artificial quota systems used by any State-supported school will be abolished.

Of all the types of sexual discrimination, one of the most blatant is in the area of employment. In 1971, women comprised 43.4 percent of the labor force but despite their numbers and their extensive contributions, salary levels, advancement opportunities, and general employment conditions for women are generally poorer than they are for men.

Insofar as salaries are concerned, there is incontrovertible evidence that the salaries of women are lower than those for men in comparable positions. It is an unfortunate fact, for instance, that the median salary earned by women is only 59.5 percent of that earned by men, and the situation is not improving. Moreover, as in the case of education, few women are to be found in top managerial or professional positions.

Legal status, education, employment—these are but a part of a pattern—a pattern of discrimination that ought to be stopped. It is not enough to say that more women are going to college or that the male to female ratio in top level executive positions is slowly decreasing. Times are changing. Today, more and more women than ever before are looking toward a rewarding career or are combining homemaking with a job. They deserve better than to have to face a series of closed doors or be forced to accept lower pay for equivalent work.

While this amendment will apply only to governmental action and will not affect either a private situation or strictly social relationships between members of the opposite sex, it will have a tremendous national impact. For the first time we will have a national policy on the matter, with the objective clearly set forth in the governing document of the Nation. The result will be an increased awareness by all of the existence of discrimination on the basis of sex and, hopefully, a determined effort to redress the balance that has so long been tilted against the women of this Nation.

The very fact that sexual discrimination still exists is proof that existing legislation is inadequate to properly deal with the problem. Furthermore, the rulings of the courts offer little hope for proper remedy. The courts, despite the recent Reed against Reed case, have not ruled that discrimination based on sex is equivalent to discrimination based on race; by adopting the reasonableness clause of the 14th amendment they have left the burden of proof of discrimination on the individual women. This means, in practice, that sex discrimination can only be resolved on a piecemeal case-by-case basis. Quite obviously, few women will have the time or money to take cases of discrimination to the courts. The solution to both these criticisms seems obvious—pass a constitutional amendment guaranteeing equal rights regardless of sex and settle the question once and for all.

Since the amendment, as it lies before us, is simply a general statement of principle, the intention of Congress is crucial to any understanding of how it will be implemented. Therefore, it should be made clear here and now that this amendment will not require the use of employment quotas nor will it compromise the right of privacy with regard to the use of public facilities. Neither will this amendment force private schools to go coeducational or if they are coeducational to integrate their dorms by sex. Also, the amendment does not require that women become combatants in the Armed Forces although it will subject them to the draft. As the Judiciary Committee report points out, equality should not be confused with sameness; to adhere to the principle of equality does not mean that the sexes must be regarded as identical or that reasonable classifications based on characteristics unique to one sex must be abandoned.

And as I noted before, in cases where conflicts between the amendment and existing law might occur, two options are open—repeal the inconsistent statutory provisions or apply them to everyone. By utilizing the second option, for instance, protective labor clauses, intended to benefit women but often found to be a source of discrimination against them, could be retained without their objectionable features.

Passage of the equal rights amendment will not only correct an injustice born of generations, but it will allow for greater flexibility under the law. Not only will women realize a greater freedom of action than ever before, but the men of this country will also benefit. For instance the burden of support in divorce cases will be more equitably apportioned; determination of need will be made on the basis of individual circumstance rather than on the sex factor. Also, some types of employment traditionally reserved for women—such as nursing will be opened to interested males. In short, passage of this amendment should help keep us apace of the rapidly changing times. Therefore, in the name of justice and commonsense, I urge the adoption of this amendment as quickly as possible.

The PRESIDING OFFICER. All time on the amendment has expired. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG (after having voted in the affirmative). Mr. President, on this vote I have a pair with the Senator from Minnesota (Mr. HUMPHREY). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Washington (Mr. JACKSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from Alabama (Mr. SPARKMAN), the Senator from Maine (Mr. MUSKIE), and the Senator from New Hampshire (Mr. MCINTYRE) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 18, nays 73, as follows:

[No. 113 Leg.]

YEAS—18

Bennett	Eastland	Hollings
Buckley	Ervin	Miller
Byrd, Va.	Fannin	Saxbe
Byrd, W. Va.	Fong	Stennis
Cooper	Goldwater	Talmadge
Dominick	Hansen	Thurmond

NAYS—73

Aiken	Brooke	Ellender
Allen	Burdick	Fulbright
Allott	Cannon	Gambrell
Anderson	Case	Gravel
Baker	Chiles	Griffin
Bayh	Church	Gurney
Beall	Cook	Harris
Bellmon	Cotton	Hart
Bentsen	Cranston	Hatfield
Bible	Curtis	Hruska
Boggs	Dole	Hughes
Brock	Eagleton	Inouye

Javits	Nelson	Spong
Jordan, N.C.	Packwood	Stafford
Jordan, Idaho	Pastore	Stevens
Kennedy	Pearson	Stevenson
Magnuson	Pell	Symington
Mansfield	Percy	Taft
Mathias	Proxmire	Tower
McGee	Randolph	Tunney
McGovern	Ribicoff	Weicker
Metcalf	Roth	Williams
Mondale	Schweiker	Young
Montoya	Scott	
Moss	Smith	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Long, for.

NOT VOTING—8

Hartke	McClellan	Muskie
Humphrey	McIntyre	Sparkman
Jackson	Mundt	

So Mr. ERVIN's amendment (No. 1065) was rejected.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 904) to amend the Uniform Time Act to allow an option in the adoption of advanced time in certain cases, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

H.R. 11948. An act to amend the joint resolution authorizing appropriations for participation by the United States in the Hague Conference on Private International Law and the International (Rome) Institute for the Unification of Private Law; and

H.J. Res. 984. Joint resolution to amend the joint resolution providing for United States participation in the International Bureau for the Protection of Industrial Property.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled bill (S. 3353) to provide for the striking of medals in commemoration of the First U.S. International Transportation Exposition.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. BYRD of West Virginia).

HOUSE BILL AND JOINT RESOLUTION REFERRED

The following bill and joint resolution were each read twice by their titles and referred to the Committee on Foreign Relations:

H.R. 11948. An act to amend the joint resolution authorizing appropriations for participation by the United States in the Hague Conference on Private International Law and the International (Rome) Institute for the Unification of Private Law; and

H.J. Res. 984. Joint resolution to amend the joint resolution providing for United States participation in the International Bureau for the Protection of Industrial Property.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, March 21, 1972, he presented to the President of the United States the enrolled bill (S. 3353) to provide for the striking of medals in commemoration of the First U.S. International Transportation Exposition.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from New York is recognized.

(The remarks Mr. JAVITS made on the introduction of S. 3382 are printed in the section of the RECORD devoted to the transaction of routine morning business under Statements on Introduced Bills and Joint Resolutions.)

EQUAL RIGHTS FOR MEN AND WOMEN

The Senate continued with 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.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1066

Mr. ERVIN. Mr. President, I call up my amendment No. 10966.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the end of section 1 add the following sentence: "This article shall not impair the validity, however, of any laws of the United States or any State which exempt women from service in combat units of the Armed Forces.".

Mr. ERVIN. Mr. President, I yield myself such time on the amendment as I may use.

I am sure that the fathers and mothers of America are delighted to know that the Senate of the United States has voted 72 to 18 to draft their daughters into the military service of the country. But I can assure my colleagues that I still expect to be guided by the second verse of the 23d chapter of Exodus, which says:

Thou shalt not follow a multitude to do evil.

Mr. President, while sufficient Senators are in the Chamber, I ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, this amendment is designed to prevent the conversion of Annapolis and West Point and the Air Force Academy and the other service academies into coeducational war colleges. It is also designed to prevent sending the daughters of America into combat, to be slaughtered or maimed by the bayonets, the bombs, the bullets, the grenades, the mines, the napalm, the poison gas, and the shells of the enemy.

Before I go into further detail about the purposes of this amendment, I want to say a few things about the effect of the amendment on this proposal and the effect of the amendment on other areas of life.

I hold in my hand an article by Richard Wilson which appeared in the Washington Star of August 14, 1970. The article is entitled "Women's Rights Amendment May End Protection." I read the article:

Reading in the Congressional Record the hours of debate devoted to the so-called women's rights amendment is hard going but worth it for one reason.

The House of Representatives went on record in favor of a constitutional amendment without a very clear idea of what it will mean. When unnumbered millions of women find out that they will lose privileged status so that their militant sisters may claim rights—and responsibilities—equal to men, they may not be very pleased.

The woman who thinks that making a home and raising a family is the greatest career to which she aspires, and wishes to be protected in what she considers to be a noble and natural role, may quite conceivably find that she has lost some of this protection.

Let us take, for example, a young woman of 20 who wishes to marry and settle for a long, rewarding life with children in a comfortable home. First, she may be subject to the draft, although the women in Congress assure us that she will not have to fight if she is not fitted for it.

I digress to observe that I saw many men who had to fight in the First World War who were not fitted for that task.

I resume reading the article:

Some girls of 20 are, of course, quite equal to the ardors of military campaigning as they so ably demonstrate in the sports arena, and some of them can shoot straight, too.

Once married, and if things go awry, some young women may find themselves liable to pay alimony to a wronged husband.

I digress to say that I am sure that the women of America will be delighted to know that if this amendment is adopted, they may be called upon to pay alimony to their husbands. Also, I venture to suggest that a few husbands would be delighted to know that they can collect alimony from their wives.

I resume reading the article:

The responsibility for the financial support of children may lie equally upon her instead of solely upon a wayward husband.

These details are mentioned with hesitancy and deferrence because we have the assurance of Mrs. Martha Griffiths, the able congresswoman who accomplished the amazing one-hour feat of putting across an amendment pending for 47 years, that 30 million women are at work nowadays and desire equality more than protection.

In practical effect, as under the social security program, this equality will extend to men such privileges as are accorded women. But Mrs. Griffiths has a little different twist on it. She wishes to reserve for women some existing privileges based upon physiological differences. She asserted in the debate that separation of the sexes by law would be forbidden under the amendment except in situations shown to be necessary because of an overriding and compelling public interest. "For example, in our present culture," she said, "the recognition of the right of privacy would justify separate rest room facilities in public buildings."

I digress there to state that I do not see how that can be, because the segregation of the sexes in restrooms is a product of law, and this amendment will invalidate every law making any distinction of any kind in any respect between men and women. Prof. Paul Freund, of the Harvard Law School, and Phil Kurland, of the Chicago Law School, concur in this.

I resume reading the article:

However, it seems to be admitted on all sides that the equal rights amendment raises hundreds of other questions in many states

concerning family relationship, divorce, separation, alimony, age of consent, military service, child custody, bastardy. The contention cannot be dismissed lightly that the equal rights amendment releases men from sole family and public responsibilities that society has traditionally imposed upon them and not upon women.

An overwhelming majority of the House of Representatives set aside these doubts, raised incidentally by orthodox liberals, largely out of the conviction that women are discriminated against in employment. This is demonstrably true and women are unjustly discriminated against in other ways.

Mrs. Griffiths dismisses the idea that any real protection will be lost to women but her opposition raised a great many telling points, which were not explored in debate nor were they the subject of prior hearings in the House of Representatives.

The amendment was passed over Judiciary Chairman Emmanuel Celler's plea to wait until after hearings he had scheduled in September. It can readily be understood that the women's rights advocates placed no trust in Celler's plea since in all the years he has been chairman of the Judiciary Committee he has been unmoved by continuous pressure for adoption of the amendment.

The House acted, and presumably the Senate will act also, under heavy pressure from women's organizations who desired this "Magna Carta" in tribute to the 50th anniversary of women's suffrage.

But much more seems to be expected from this simple amendment than it actually promises. Other enactments "liberate" women without sacrificing their protection. The prudent woman will wish her state legislature to take a long look at this deceptive amendment when the ratifying process begins. It was designed by men to get women's votes nearly a half century ago.

Mr. President, I now wish to read an editorial published in the Salisbury, N.C. Evening Post of August 17, 1970, entitled "Gals Gain Equality, But What Is Lost?":

"Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex."

Such is the tersely worded but sweeping text of the equal sexual rights amendment passed by the House of Representatives after 47 years of male-chauvinist dillydallying.

While the amendment has yet to be seconded by the Senate (though easy passage is expected there) and by the legislatures of 38 states before it becomes the law of the land as the 26th Amendment to the Constitution, legal experts are already worried about the possible ramifications of the act.

"It will open a Pandora's box of legal complications," warns eminent Harvard law professor Paul Freund. "The amendment expresses noble sentiments, but I'm afraid it will work much mischief in actual application."

What kind of mischief?

Every provision in the law which has a sexual basis, every statute dealing with the manifold relations of men and women in society, would be transformed into a constitutional issue that would ultimately have to be resolved by the Supreme Court, says Freund.

Such laws include those designed to protect women from heavy or hazardous work and limiting their working hours; and immense and varied body of laws governing divorce, child support and inheritance; laws setting the age of consent, which is lower for women than for men in 30 states.

Using this one example, the Wall Street Journal asks: To make things equal, should these states lower the age for men or raise it for women?

Others, with tongues not entirely in cheek, suggest that under the amendment, expectant fathers could demand maternity leave, women would be liable for the draft and divorcees' incomes would be subject to alimony deductions to support ex-husbands.

The more militant women liberationists, like those who recently sexually integrated a for-men-only bar in New York, will say that's fine. In fact, they are eager to assume such liabilities and responsibilities. The sillier objections they dismiss as typical male persiflage.

Not all women are liberationists, however, and not all of them feel oppressed because there are such things as men only clubs and bars. (It can also be guessed that even the most ardent female equalitarian would not graciously welcome the male who demanded the right to take a shower in the ladies' locker room of the YMCA.)

Which is to say that there are certain fundamental, inescapable differences between men and women and that to label them all as "inequalities" and to attempt to legislate them away is like passing a law giving women resonant voices, thus making them equally eligible for jobs as radio announcers.

Rep. Leonor K. Sullivan, D-Mo., one of 10 female members of the House, deliberately abstained from voting on the amendment because she fears it will strip women of too many protections she considers necessary and valuable.

It remains to be seen whether she represents a "silent feminine majority" which will rise up and make itself heard when the issue comes before the several state legislatures.

As Freund says, the amendment expresses noble sentiments. Its basic justice cannot be denied.

But neither can its mischief-making potential be blinked away.

We could be in for an interesting time.

Mr. President, I predict that we will have a very interesting time if this amendment submitted by the Congress is ratified by 38 States. If that happens, there are literally thousands and thousands of Federal and State laws which would be rendered null and void and would have nothing to take their place except a constitutional amendment which says that no law can exist now and no law can be enacted in the future which does not ignore the differences which do exist between men and women and which does not subvert men and women into identical legal beings with identical rights and identical responsibilities.

Mr. President, on August 24, 1970, an article entitled "Let's Save Women From Full Equality" was published in the National Observer. The article makes the following statement, among other things:

The question, which the feminists have not articulated very well, is at what point in the process of "liberation" would women begin to realize diminishing returns?

If fair-minded people agree that women should be treated equally in the job market, and that the aspirations of women to make the most of their lives and intellects merit something more than mockery, what else can be done? Should the cause of equality be pursued to such an extreme that the subtensions in man-woman relationships are destroyed? Those tensions, after all, go far to assuage the travail of living a human life.

Even casual relationships between men and women are different from those between members of the same sex. And no matter what the more radical feminists say, the reason lies not in custom but in nature. Beauty in a woman is forever a distraction to every man she meets; he may admire her other qualities and respect her for them, but is always aware he is not in the company of a man.

The tension, of course, is reciprocated. A woman may be mindful that the man at the next desk is a proficient worker and an amiable individual, but she is ever conscious that he is a male.

If this is true, then how is it possible to re-engineer society so that men and women will be treated identically? It can't be done. But are women really the losers because of it?

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

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

LET US SAVE WOMEN FROM FULL EQUALITY

(By Edwin A. Roberts, Jr.)

Long before Voltaire employed it with historic effectiveness in his *Philosophical Dictionary*, the technique of weakening an institution or a movement by relentlessly mocking it was a staple in human arguments. And no cause has been so zealously mocked for so long as has the campaign for women's rights.

Mockery has many advantages. If you set about making fun of a concept, it's often not necessary to go to the trouble of debating the concept on its merits. The act of mocking carries with it the implication that the target is too ridiculous to rate serious analysis.

This is the attitude men have customarily adopted toward the efforts of feminists to win equal political and social rights. It is the attitude most often adopted today in the face of a powerful challenge by various women's groups to dispel many old myths and inequities that still burden the female sex. Women, in one context or another, have been the stuff of male jokes since the dawn of the race; and beneath the veneer of humor has lain a monumental contempt.

Rousseau wrote: "The education of women should always be relative to that of men. To please, to be useful to us, to make us love and esteem them, to educate us when young, to take care of us when grown up, to advise, to console us, to render our lives easy and agreeable; these are the duties of women at all times, and what they should be taught in their infancy."

LORD CHESTERFIELD'S VIEW

And Lord Chesterfield declared: "Women are only children of a larger growth . . . A man of sense only trifles with them, plays with them, humors and flatters them, as he does with a sprightly, forward child; but he neither consults them about, nor trusts them, with serious matters."

What is remarkable about the state of mind these observations reflect is not that it is a curiosity from the reactionary past, but that it is a state of mind persisting today. Usually without realizing it, most men continue to think of women as splendid, troublesome, useful accessories. They go well with wine and song; they seem to have a knack for housekeeping; and their childlike interest in clothes, gossip, and sentimental stories deserves only the baffled smile of the generously tolerant male.

Such is the prejudice women have been bucking for centuries. It shouldn't be surprising, then, that some particularly ardent feminists have set as their goal an exact equality with men; that is, there would never be sex discrimination, even if that discrimination amounted to a privilege for women. No more alimony. No more male door-holding. No more exclusion from the draft. No more anything that underlines a social distinction between men and women.

Well, it's possible to sympathize with women activists without buying the package insisted upon by their more radical fellows. Women, after all, have come a long way since 1879 when Henrik Ibsen wrote *A Doll's House,* the play that outraged society by laying bare the absurdly subservient role of wives in the Nineteenth Century. Still it was only 50 years ago that American women got the vote, and in England women weren't fully enfranchised until 1928.

The equal-rights amendment recently passed by the House of Representatives has been kicking around for 47 years, but at least it seems to be getting someplace now. Every male human on earth gives lip service to the proposition that women should be paid equally for equal work, and many of the old barriers aginst women holding more responsible jobs are being dismantled.

DIMINISHING RETURNS

The question, which the feminists have not articulated very well, is at what point in the process of "liberation" would women begin to realize diminishing returns?

If fair-minded people agree that women should be treated equally in the job market, and that the aspirations of women to make the most of their lives and intellects merit something more than mockery, what else can be done? Should the cause of equality be pursued to such an extreme that the subtle tensions in man-woman relationships are destroyed? Those tensions, after all, go far to assuage the travail of living a human life.

Even casual relationships between men and women are different from those between members of the same sex. And no matter what the more radical feminists say, the reason lies not in custom but in nature. Beauty in a woman is forever a distraction to every man she meets; he may admire her other qualities and respect her for them, but he is always aware he is not in the company of a man.

The tension, of course, is reciprocated. A woman may be mindful that the man at the next desk is a proficient worker and an amiable individual, but she is ever conscious that he is a male.

If this is true, then how is it possible to re-engineer society so that men and women will be treated identically? It can't be done. But are women really the losers because of it?

Let me tell a little story. Some years ago a young, single man living in New York made it a practice to go alone to the theater on Thursday nights. About half the time he wound up sitting next to a single woman, a different woman each Thursday night, who had also purchased only one ticket.

It was an easy matter for the man to strike up a conversation and, after the show, to invite the woman out for a post-theater snack. Emerging from the theater, the man would grasp the woman firmly by the arm, guide her to a taxi, see her into it and then climb in himself. Without asking the woman her preferences, he would tell the cabbie the name of the restaurant. Once there, the man would tell the head waiter what table he preferred, and he would then proceed to make some strong suggestions to the woman about what she might enjoy eating and drinking.

With the logistics taken care of, the man would then settle back and converse with the woman about whatever seemed to interest her. Once they were seated at the table, the man and the woman were indeed equals and the conversation took care of itself. The woman, far from resenting the man's control of the situation in getting them from theater to restaurant, was always pleased that that business had been handled by the man. As a result she quickly developed confidence in him while gaining confidence in herself—after all, he went to all that trouble for her.

FEMINISTS WOULD OBJECT

Radical feminists would undoubtedly despise the man's behavior. They would be happier if the couple discussed, in democratic fashion, what corner to head for to catch a taxi, what restaurant to go to, what table to sit at, and what in the world to have to eat. It probably would have been dawn by the time they agreed on what cab to hail.

It is not mockery or in any way belittling to observe that men and women, by nature, ask of each other certain considerations they would not ask of members of their own sex. A woman is no less "equal" for permiting the man to expedite the logistics of a date. Nor is a man contemptuous for assuming such responsibilities.

The feminists, when they hold their "strike" Aug. 26, would do themselves and society a favor if they made it a point to distinguish between economic sex discrimination and the natural differences between the social behavior of men and women.

That wouldn't settle the matter, but it would help bring the nation's fuzziest debate into far better focus.

Mr. ERVIN. Mr. President, the National Observer of August 17, 1970, carried an article entitled "Liberating Women or Harming Them?" This article said in part:

Rep. Leonor Sullivan was not in Washington last week when her colleagues in the House voted 350 to 15 for an amendment to the Constitution that would give women equality of rights with men and vice versa.

But nonetheless she says "I would not have stood up as the lone woman" of the 10 women in the House "and spoken against the resolution." She would quietly have voted no. "Men can oppose each other on an issue and nothing is said about it," she says, "but if women do, it becomes a 'cat fight' as far as the news media is concerned. I didn't want that."

The Missouri Democrat believes, along with 15 men who voted against the resolution, that "it will do more harm to women than has been anticipated." Rep. Emanuel Celler, chairman of the Judiciary Committee, which has kept the resolution bottled up without hearings for 47 years, regards it as a "blunderbuss proposal that will wipe out all the good as well as the bad." He, and other male opponents, believe that it will nullify state and Federal laws that were designed to protect women.

THE LAWS AFFECTED

These include: domestic and marital law concerning age of consent, alimony, divorce, community property, and child custody, support, and maintenance; labor law, concerning arduous work, manual and heavy weight-lifting requirements, night work, and rest periods; laws proclaiming differences in ages of legal responsibility and laws that now apply only to men, as rape and certain types of assault; the military draft.

Congresswoman Sullivan is concerned about the upheaval in the law that a Constitutional amendment would necessarily create. She agrees with Prof. Paul Freund of Harvard Law School who says, "It would transform every provision of law concerning women into a Constitutional issue to be ultimately resolved by the Supreme Court." But Mrs. Sullivan's concern goes beyond this to the social values that underpin the family unit. "I guess I'm old-fashioned, but I don't want to see the responsibility of the father taken away as head of the family and as the main financial support of the family." So many protections that women have now "will be thrown away by the drive for equality, equality in everything," she thinks. She was surprised that only 15 members of the House "had the courage to vote no. It was easier to vote yes and not have to explain why. This has become such an emotional thing."

Mr. President, I digress from the reading of this article to note that it is always easier to fight for the evil that the multitude wants than it is to fight for the small group who want to do the right thing. However, I am going to prophesy that in some of the forthcoming primaries and elections, the Members of Congress who have voted to draft the daughters of America are going to have to do a lot of explaining to the fathers and the mothers of those daughters—that is, if the legislatures of the 38 States follow the examples set for them by the votes thus far taken in Congress.

Mr. President, I resume the reading of the article:

Mrs. Sullivan is probably right that many congressmen didn't know exactly what they were voting for, but if the ladies wanted it, fine. Rep. Martha Griffiths, Democrat of Michigan, led the fight to get the resolution discharged from Mr. Celler's committee by petition and she didn't seem disturbed by the argument that it would create more troubles than it would dissipate. "None of the horrors which have been conjured up will occur," she said just before the vote.

AN HOUR'S DEBATE

Mrs. Griffiths did not say why they would not occur. But then, since there were no hearings and little over an hour of debate on the House floor, there was little time to explore the amendment's impact. It was assumed that insofar as the military draft is concerned women would not be able to pass the physical for combat duty. Rep. Shirley Chisholm, New York Democrat, didn't seem alarmed if women could pass the physical. "Each sex, I believe, should be liable when necessary to serve and defend this country," she declared. More important, she said, was straightening out the work of the Founding Fathers. "The Constitution they wrote was designed to protect the rights of white, male citizens. As there were no black Founding Fathers, there were no founding mothers—a great pity, on both counts."

I omit a portion of the article and resume reading:

The resolution has a long way to go to become a proposed constitutional amendment, of course. The Senate Judiciary Committee will hold hearings next month. It must pass the Senate by a two-thirds vote, then be ratified by the legislatures of 38 States.

Mr. President, I am glad the Constitution has a provision requiring ratification by three-fourth of the States. I have long deplored the centralization of power in Washington and particularly in Congress. I do this, because it is much easier to persuade one legislative body to lay aside wisdom than it is to persuade 50 legislative bodies to do so.

The Washington Star for August 16, 1970, published an article by James J. Kilpatrick entitled "Women's Rights Amendment: Wait a Minute!" The article reads as follows:

WOMEN'S RIGHTS AMENDMENT: WAIT A MINUTE!

(By James J. Kilpatrick)

The House of Representatives voted itself a three-week recess on Friday, but the vote came four days too late. In a monumental display of irresponsibility, far beyond the calls of lunacy, the House on Monday voted 346–15 to approve a "women's rights" amendment to the Constitution.

Gadzooks! Zounds! Horsefeathers! What in the world came over the House?

If you follow the course of constitutional amendments on the Hill, you might suppose this action reflected months of painstaking hearings, testimony by professors of law, studies by constitutional experts. None of this. There had not been a single hour of study in committee.

From the lopsided nature of the vote, you might suppose the amendment had overwhelming public support. Bosh! This constitutional time bomb is the contrivance of a gang of professional harpies, descendants in zealotry of the late Carry Nation. Her bag was Prohibition; theirs is "women's rights." They are as persistent as Secaucus mosquitoes and they are the biggest bores in town. The 346 who voted for this resolution, give or take a handful, had but one purpose in mind—to get these furies off their backs.

Now, mind you, there is an excellent case to be made for "equal rights for women" in certain well-defined areas of law and public policy. It is patently unfair for women to be paid less than men for performing the same work. This is more than unfair: It is unlawful, under the Civil Rights Act of 1964. The Department of Justice recently filed a major case to establish the point. Meanwhile, the Equal Employment Opportunities Commission has won scores of voluntary agreements in industry to halt discrimination against women workers

The equal protection clause of the existing Fourteenth Amendment also is being widely invoked these days, notably in suits to compel the admission of women on an equal basis with men at state-supported institutions of higher learning. Step by careful step, courts and legislatures are in fact adjusting to the changing status of women in America today.

All well and good. But the reckless action of the House on Monday is the very antithesis of this careful, reasoned approach to social and legal change. The proposed amendment says this: "Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex."

Does anyone have even a foggy notion of what this amendment, as a matter of law, would accomplish? No, sir. The House record is as empty as a ping-pong ball. The Senate Judiciary Committee held three days of hearings this past May, but these were mostly my dear lady, how delighted we are to have you here. The hearings have not even been printed.

The most rudimentary study would have required of the House that it look into all the laws of all the states, along with the Federal Government, especially affecting women. It is a fair assumption that hundreds of such laws exist, affecting marriage, divorce, wills and estates, inheritance, abortion, military service, hazardous occupations. If this amendment were ratified in its present form, as Professor Paul Freund has said, it would "transform every provision of a law concerning women into a constitutional issue to be ultimately resolved by the Supreme Court."

Look. This is serious. The U.S. Constitution, just as Gladstone said in his famous phrases, is in truth the most wonderful political work ever struck off at a given time by the brain and purpose of man. It ought never to be amended lightly or frivolously, or to soothe some passionate sopranos.

Perhaps the Senate will bury this proposal, but the resolution has 83 sponsors over there and the prospect seems unlikely. In the end, it may be up to the sovereign states. God bless them, to demonstrate the same courage and common sense shown by the 15 stout-hearted men who had the guts on Monday to stand up and vote no.

Mr. President, on August 14, 1970, the Durham, N.C., Morning Herald published an editorial entitled "Mischief in Rights Amendment," which states as follows:

MISCHIEF IN RIGHTS AMENDMENT

Men stand to benefit almost as much as women from the "equal rights for men and women" amendment which the House of Representatives passed overwhelmingly 350–15)—and seemingly thoughtlessly—Monday. Indeed women may find themselves the losers if this proposed amendment does eventually become a part of the Constitution.

The intent of the amendment is to prevent discrimination against women and in concept this is desirable. Equal pay with men for comparable work is, for example, a commendable objective. Such specific gains can be attained by legislation. A constitutional amendment is so broad and comprehensive that it will produce undesirable results along with the desirable.

Something of the danger inherent in this amendment has been forcefully put by Paul Freund, professor of law in the Harvard Law School:

"It will open a Pandora's box of legal complications. The amendment expresses noble sentiments, but I'm afraid it will work much mischief in actual application."

Women now enjoy certain considerations because of their sex: greater restrictions on working hours, restrictions on engaging in certain occupations because of the strenuous physical labor involved, exemption from the draft for military service, a lower age limit for marrying, receiving alimony and custody of children in the event of divorce.

Under this amendment, women could be required to work equal hours with men, to do the same work men do, their exemption from the draft could be ended, their age for marrying could be raised to that set for men, they could be made equally responsible for the financial support of the family with their husabnds, they could be denied alimony and husbands would get more consideration in determining custody of children.

The considerations given women are based on their anatomical and physical differences from men and the biological requirement that women be the bearers of children and in consequence the nuturers of children (we wonder how the women's liberation organization proposes to get child-bearing shared with men or turned over to them). These factors have been determined by nature and the long experience of the race; to upset them even to the degree proposed in this amendment will be deleterious to emotional health and to the welfare of children.

The more one considers this amendment the sillier it appears. That any Congress would seriously consider it reflects unfavorably on that Congress.

Mr. President, the Wall Street Journal for August 13, 1970, carried an article entitled "Proposal To Broaden the Rights of Women May Bring Surprises." I ask unanimous consent that the article be printed in full in the body of the RECORD as a part of my remarks.

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

PROPOSAL TO BROADEN THE RIGHTS OF WOMEN MAY BRING SURPRISES—AMENDMENT TO THE CONSTITUTION WOULD PERMIT THEM TO MINE COAL, BE DRAFTED INTO ARMY

(By Elliot Carlson)

WASHINGTON.—A new era of opportunity may await the American woman. Soon, perhaps, privileges long denied will be hers: The right to tend bar just like men, the right to work overtime just like men, the right to earn the same pay men get when she performs the same work.

On the other hand, she may be on the threshold of other, more dubious privileges: The right to be drafted into the army, the right to lift heavy weights, the right to pay alimony should she and her husband divorce.

All of these things could result if a long-simmering Constitutional amendment to provide "equal rights for men and women" finally becomes law. Repeatedly introduced in Congress since 1923, the amendment has a good chance of clearing Congress this year. It comes up for a vote in the House today and House leaders expect it to win the necessary two-thirds majority. Senate passage later seems assured. Then the measure would have to be adopted by three-fourth of the states.

Proponents—men, as well as many women's rights and women's liberation groups—believe the amendment will eliminate discriminatory practices against women in nearly every phase of life. But a few critics aren't so sure. They worry the new law will create years of legal confusion and, possibly, go too far in altering legal, economic and other relationships between the sexes.

"It will open a Pandora's box of legal complications," warns Paul Freund, professor of law at Harvard Law School. "The amendment expresses noble sentiments, but I'm afraid it will work much mischief in actual application."

A SWEEPING AMENDMENT

Clearly. the amendment's effects would be sweeping. It would render constitutionally suspect most Federal and state laws that make sexual distinctions. Among them: Laws that restrict the rights of married women to establish a legal domicile and, in some cases, engage in business; laws that exclude women from certain state colleges; laws that impose on them stiffer prison sentences; laws that govern the nation's arrangements as to marriage, divorce, alimony and child support; and also perhaps laws that exclude women from the military draft.

Paradoxically, many of these changes apparently would benefit men, such as the overturning of laws that now award alimony to ex-wives but not to ex-husbands.

Moreover, the amendment would nullify protective labor legislation for women covering maximum hours, night work, weight-lifting and occupational prohibitions. States no longer could prohibit women from entering such fields as bartending and coal mining, as several now do. Ohio, which has unusually broad sexual restrictions, would be particularly affected: It would have to admit women to the now-closed ranks of bellhops, shoeshiners, pinsetters and meter readers.

Female backers of the amendment argue these so-called protective laws have sharply limited women's opportunities. "If the amendment means women lose certain privileges, so be it," snaps Mrs. Rita Hauser, U.S. representative to the United Nations Commission on Human Rights. "These laws might have been necessary once, but now they simply prevent women from economically improving themselves."

CLOGGING THE COURTS

But some experts fear the new law's chief effect would be to clog the courts with years of litigation over how to interpret it.

A sample problem: What will happen in the 30 states where women may marry without parental consent at an earlier age than men? To make things equal, should these states lower the age for men or raise it for women?

According to proponents, the problem would be solved by simply extending rights enjoyed by one sex to the other sex. But deciding what is and what isn't a right may not turn out to be so simple, says Harvard's Mr. Freund. He observes that lowering the marrying age for men might actually involve their surrendering certain rights—such as the right to annul marriages and contracts on the ground that they entered in them before reaching their maturity.

This problem seems mild compared to the question of women and the draft. Some women feel it's unjust for females to be denied eligibility for involuntary induction. "A lot of privileges go along with being in the military," and the opportunities for women to enlist are limited, says Adele T. Weaver, president of the National Association of Women Lawyers, "Men learn trades in the service—women should have this right, too."

Most likely, women would be selected through the same lottery system that selects men, legal experts think. This doesn't mean they would be assigned combat duty (though one women lawyer argues that "if it turns out women can shoot straight, they should be placed on the front lines"). Most authorities figure women would be assigned duties on the basis of physical suitability, meaning they would end up as clerks, typists, nurses and aides.

But other experts question whether Congress necessarily would interpret the amendment as making women draftable at all. Conceivably, says James J. White, professor of law at the University of Michigan Law School Congress could set exceedingly rigorous physical standards that would favor men but work against women. "The Government could then say that since so few women qualified, they should be cut out altogether," Mr. White suggests, "The women's lib groups would raise hell, but the courts are going to have to interpret this amendment reasonably or we'll have chaos."

Indeed, much will hinge on whether courts permit to stand any laws that make sexual distinctions. The sweeping and unconditional language of the two-sentence amendment works against this, say some legal authorities.

"The litigation could be endless," concedes Soia Mentschikoff, professor of law at the University of Chicago Law School. "The courts will have to decide whether sex can ever be a reasonable classification. For example, there's always been a certain presumption in favor of the mother in child custody cases. Courts probably won't alter these traditional roles overnight." Despite the sweeping language of the amendment, "the courts will have to deal with reality," she says.

Nonetheless, many experts believe the new amendment would indeed abrogate many age-old legal roles based solely on sex. One example: The common rule that the husband has the primary duty of support of his family. Instead, it would become "the legal duty of either spouse to support the other, more dependent spouse," explains Mrs. Weaver. In states where the law provides for alimony only for wives, courts could, under the new law, start awarding alimony to husbands. Also, both parties would assume responsibility for child support.

The amendment also would have important effects in the area of employment. While Title VII of the Civil Rights Act of 1964 already bars job discrimination on the basis of sex, the equal rights amendment probably would speed up the securing of employment rights for women. In addition of gaining opportunities to work more hours and at different jobs, women would receive some Social Security benefits that now apply only to men.

A few critics argue that the amendment's language is just too sweeping to be practical. Obviously, they say, states aren't going to strike down the sexual distinction in laws providing maternity benefits for women only.

Mrs. Weaver answers that such distinctions in law really aren't discriminations as to sex, but rather "medical matters."

A male lawyer, who asks to remain unidentified, isn't convinced by this argument. "This is silly—women reintroduce sexual distinctions into the law when it suits their purpose. They just put a different label on them."

Most critics of the equal rights amendment also argue that the same ends could be achieved through rigorous enforcement of the "equal protection" clause of the 14th Amendment—and without throwing into confusion every law involving sexual distinctions. Rep. Martha Griffiths (D., Mich.), who last year introduced the proposed amendment, agrees that the Constitution, if properly interpreted, could protect women's rights. But she says the Supreme Court, despite many opportunities in the past, has never done so.

Mr. ERVIN. Mr. President, to my mind this proposed equal rights amendment represents a great departure from sound principles of legislation and, even more, from sound principles of drafting constitutional amendments. The equal rights amendments came into existence back in 1923. Its proponents have insisted at all times that it be submitted to the States by the Congress without the Congress's altering a single dot or a single title in it. It is the only such legislative proposal made at any time during the 18 years in which I have had the honor to represent in part my State in the Senate of the United States. Every other legislative proposal—and they have run into untold thousands—has been subject to close scrutiny by committees of the Congress, and the members of congressional committees have sat down and studied the proposals and endeavored to find defects in them which could be removed and to ascertain if they could be perfected. Not so with the equal rights amendment.

As one of the persons who may be characterized as a legislative fool who rushes in where legislative angels fear to tread, I have been quite conscious of this. I have attempted at time in the committees to point out the dangers inherent in this equal rights amendment and to have changes made in it—all to no avail. So Congress is having to consider an equal rights amendment under circumstances in which the Congress is denied the right even to scrutinize the amendment.

How much better it would have been if the proponents of the amendment had been willing to let the Members of Congress sit down in the committees and try to work out an amendment which would give equality or right, equality of responsibility, to men and women in all of the circumstances of life in which such equality would be appropriate. Instead of that, we have an amendment which is based upon the theory that Congress shall have no right to exercise its intelligence hereafter in the making of laws—an amendment which is based upon the theory that Congress and the legislatures of 50 States must not even recognize, when they frame legislation, that God created mankind male and female—a constitutional amendment which places Congress and all of the 50 State legislatures in a straitjacket, and forbids them to make reasonable distinctions where reason prompts such distinctions between the rights and responsibilities of men and women.

A quite interesting advertisement appeared in this morning's Washington Post in which it complains about the Supreme Court. It says the U.S. Supreme Court has rationalized its decisions by holding that sex is a reasonable classification.

In other words, it is not reasonable for Congress, the Supreme Court, or a State legislature, to even recognize the existence of sex when it passes any kind of law on any subject whatsoever.

So, in the final analysis, this is an amendment designed not to bring about reasonable adjustments in the relationships of men and women, but an amendment which is designed to make constitutional, laws which are wholly irrational, laws which are wholly unreasonable, and laws which are wholly arbitrary.

Mr. President, I yield such time as he may use to the distinguished Senator from Hawaii (Mr. FONG).

Mr. FONG. I thank the distinguished Senator from North Carolina for yielding to me.

EQUAL RIGHTS FOR MEN AND WOMEN—IS THE PRESENT AMENDMENT THE RIGHT AMENDMENT?

Mr. President, I have long been aware of the fact that women have been treated differently, and I may say, often unfairly, in business, in industry, in the professions, and under our various Federal and State laws.

That fact is not disupted.

WHY THIS DEBATE?

Why then this debate?

Why has it taken since 1923, 49 years, to get the Congress to vote on this historic amendment?

Few, if any, of my colleagues, I am certain, oppose equal rights for men and women.

Few, if any, of my colleagues, I am certain, oppose equal opportunities for men and women, be those opportunities for education, for job training, for employment, for promotion.

Few, if any, of my colleagues, I am certain, oppose equal pay for equal work for men and women.

Few, if any, of my colleagues, I am certain, oppose equal treatment for men and women under our laws, be they Federal or State laws, criminal or civil laws.

Concededly, the protective legislation, so hard fought for by both men and women, and enacted early this century was intended to protect the health, safety, and morals of women.

Concededly, this protective legislation—including maximum hour laws for women, minimum wage laws for women, limitations on night work for women, limitations on the weight a woman may lift, the requirement that rest facilities be provided and maternal leave be granted women, though well intentioned, as more and more women joined the work force and provided more and more competition, have been used often to prevent or hinder the employment of women or their promotion to positions where their natural abilities, education, and training are utilized to the fullest extent.

As I declared in my statement at the opening of the hearings on an identical equal rights amendment on May 5, 1970, before the Senate Subcommittee on Constitutional Amendments, of which subcommittee I am the ranking minority member:

Full utilization of all our human resources, whether manpower or women power, is, in

my opinion, essential if we are to achieve our maximum national potential.

Concededly, our maximum national potential is not being fully realized.

EFFORTS TO CORRECT DISCRIMINATION AND DISCRIMINATORY LEGISLATION

Discriminatory legislation—whether favorable or detrimental to women—still exists in our Federal and State laws.

Progress has been made:

Title VII of the Civil Rights Act of 1964, prohibited discrimination based on sex. But section 703(e) of that act provides that discrimination based on sex can be justified if it is pursuant to a "bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise."

In 1963, prior to the Civil Rights Act, my State of Hawaii was among the 10 States without maximum hour laws applicable exclusively to women. Forty States and the District of Columbia according to the U.S. Department of Labor, Women's Bureau, then had maximum hour laws for women. In 1971, only 12 States retained such laws without major changes. I ask unanimous consent that the release of the U.S. Department of Labor, Employment Standards Administration, Women's Bureau, entitled "Status of State Hours Laws for Women Since Passage of Title VII of the Civil Rights Act of 1964," dated October 22, 1971, be printed at the end of my remarks.

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

(See exhibit 1.)

Mr. FONG. This progress admittedly is too slow.

Executive Order 11375, issued October 13, 1967, as amended, explicitly prohibits discrimination on the basis of sex in Federal employment and employment on Federal contracts.

This Executive order obviously is limited in scope—and, too few States have followed that Federal lead.

This program admittedly is too slow.

Reed against Reed, docket No. 70–4, unanimously decided by the Supreme Court on November 22, 1971, did invalidate a mandatory provision of the Idaho probate court that gives preference to men over women when persons of the same entitlement class apply for appointment as administrator of a decedent's estate as base solely on a discrimination prohibited by and therefore violative of the equal protection clause of the 14th amendment.

But, on March 6, 1972, in Forbush against Wallace, docket No. 71–929, the Supreme Court, without opinion, unanimously affirmed the validity of an Alabama law prohibiting the use by a married woman of her maiden name on her driver's license.

Case by case determination of the validity of such State and local laws—and Federal statutes also—is too uncertain of decision and too slow.

LANGUAGE OF AMENDMENT

Why then has it taken so long to pass so simply worded an amendment as is House Joint Resolution 208? Why have great constitutional lawyers been so split as to what effect this simple language is likely to have?

Because this language is not simple in its ramification.

It is simplistic to say, as proponents of this legislation say, the courts will extend good legislation to men and invalidate bad legislation.

A constitutional amendment even more than a statute stands on its own language.

What could be clearer:

Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

All the expectations, the hopes, the anticipations, and, I fear, the speeches of the proponents of this legislation will not cause the courts to alter the language of the proposed amendment—not that the language should be altered by the courts. That is the function of the legislatures—we have been elected to enact laws, including constitutional amendments. We cannot play ostrich and dodge our responsibilities.

We, as responsible legislators, must know what we are really doing when we pass a bill or a constitutional amendment. We are not sent here merely to rubber stamp the requests of our most vocal constituents. We are sent here to do what each of us, in our own conscience and with the benefits of all our training, experience, and background, honestly believe to be in the best interests of our country and our constituents.

And, if we are not certain of what a bill or an amendment will do, it is our duty to investigate and determine what will be the results of the language we pass—and if we do not fully agree with those results, it is our duty as human beings to stand up and say so and to state why we do not agree with the proposed language, and if possible, to offer amendments, so that the language used in the final version will be susceptible of only one interpretation—the one we believe to be most beneficial to our country and our constituents.

Senator ERVIN, in his minority views in Senate Report No. 92–689, dated March 14, 1972, quoted Prof. Jonathan H. Pincus, of the Yale Medical School, as asking:

Is the Equal Rights Amendment to be the Tonkin Gulf Resolution of the American Social Structure?

That is the why of the debate.

As is conceded by even the proponents of this amendment and as the report of committee points out, under the language of the equal rights amendment, one standard will be applied to all—regardless of sex.

All persons will be treated alike.

Now, not all State or Federal laws that are discriminatory are detrimental to women.

Such outstanding constitutional lawyers as Prof. Paul Freund, of the Harvard Law School, feel that the language of this amendment will result in all discriminatory language—whether beneficial or detrimental to women, being declared unconstitutional under this amendment.

EFFECT OF LANGUAGE OF H.J. RES. 208

Because of the serious questions which have been raised by the testimony of many impartial and competent constitutional lawyers as to the possible legal effects of the language of the amendment and of the repercussions likely to ensue from its enactment, I made a cursory survey of some of the laws of Hawaii likely to be affected by the amendment, and I asked various administrative departments and agencies what effect on the legislation administered by them, the equal rights amendment, in its present form, is likely to have.

A. LAWS OF HAWAII

My State of Hawaii, true to its aloha spirit, has been in the forefront of the move to eliminate statutory discrimination based on sex. Our fair employment practice law, our minimum wage and overtime pay laws apply equally to men and women. Jury qualification for men and women is the same. Women, equally with men, have the right to contract and to own property.

But even in Hawaii some laws are different for men and women. To cite a few highlights under our Hawaiian Code illustrative of what women might lose if House Joint Resolution 208 became part of our Constitution of the United States:

Widows' pensions are provided for widows of public officers and employees—none for widowers.

Death benefits are payable to widows and dependents of members of the police force, fire department or band—none to widowers.

Veteran's preferences in employment by governmental agencies are available to widows of deceased servicemen—none to widowers.

State public housing preferences are available to a deceased veteran's widow—none to widowers.

An illegitimate child is an heir of the mother—not of the father.

Even dower and curtesy rights vary under Hawaiian law. Here, it should be pointed out Hawaii has both, but many States have only dower rights. What happens to these widows where there are no dower rights or dower rights are greater than those afforded a widower?

Under Hawaiian laws, dower is outright and in one-third of all land owned by the husband at any time during the marriage plus one-third of the remaining property of the husband after payment of just debts.

Under Hawaiian law, curtesy is provided for. Real property descends to the heirs of the wife, subject to a life estate in the husband of one-third of the lands of which the wife was seized at the time of her death, plus one-third of her remaining property. Further, if for 1 year or more, the husband failed to provide maintenance for the wife, he is not entitled to any rights by way of curtesy.

So, Mr. President, there is a great distinction between curtesy and dower in my State, and I am sure there is a great distinction also in many of the other States.

Under Hawaiian law, a widow is given the right to occupy the lands of her husband while dower is unassigned.

Under Hawaiian law, the widow is given a right to remain in her husband's

house for 60 days, rent free, with reasonable sustenance out of his estate.

Under Hawaiian law, a wife is not liable for her husband's debts. A husband is liable for a wife's debts, her proper support and maintenance. If he fails to provide suitable support, that is a ground for divorce, with temporary alimony and attorney's fees afforded only to women.

Provisions such as the above are clearly beneficial to only women, and that obviously was the intent of the Hawaiian Legislature.

Where the Legislature of Hawaii intended to treat both men and women alike, they did so in very clear terms:

Burial of veterans of both sexes and their widows and widowers is provided for;

Workmen's compensation death benefits for dependent widows and widowers is provided for;

Workmen's compensation entitlement to both widows and widowers is provided for;

Tax exemption of real property occupied by disabled veterans and his or her spouse as a home is provided for.

In view of this type of preferential treatment in our Hawaiian Code and the comments from other Senators that their States have even more discriminatory provisions favoring women, I feel we should not act on the language in the equal rights amendment until it is very sure that the courts will not penalize women because men were not treated equally favorably under State laws.

It seems to me that in any event each State should carefully review its own constitution and laws and eliminate those provisions with differing applications to men and women, retaining, if they so choose only such differing treatment as its citizens feel is needed to protect women, such as maternity leave provisions, restroom provisions, and so forth.

B. FEDERAL LAW

To determine what Federal legislation treats men and women differently and would need revision if the equal rights amendment in its present form were enacted, I wrote to the various departments and agencies likely to be affected, asking each whether any of the legislation administered by them would need revision if the equal rights amendment were to become part of our Constitution in its present form and what effect such revised laws, if enacted, would have on the programs administered by their department or agency.

(1) NO DISCRIMINATORY LEGISLATION

Fortunately, 10 responses indicated no discriminatory legislation affected any of the programs they administer. Hence, no revision of their statutes would be required.

These departments and agencies include: U.S. Civil Service Commission, General Services Administration, Department of Housing and Urban Development, National Labor Relations Board, U.S. Postal Service, U.S. Small Business Administration, National Aeronautics and Space Administration, Civil Aeronautics Board, National Credit Union Administration, and the Department of the Treasury.

(2) MINOR PROBLEMS WITH FEDERAL LEGISLATION

The Department of Interior has a few laws treating men and women differently for purposes of determining Indian tribal rights. That law is easy of amendment.

The Department of Agriculture reports the only legislation they administer that would be affected by the equal rights amendment is in regard to food and nutritional services for pregnant and lactating women. As queer as such amended statute would read, it could be amended to provide such services to qualifying persons, I presume.

The Department of State reports that under the statutes it administers, married men must at the time of their retirement elect a minimum survivor's annuity for the benefit of their wives; women need not do so. Likewise, a widow gets a minimum $2,400 annual death-in-service benefit, while there is no minimum for widowers. The State Department indicates they should like to have the minimum survivor's benefit made optional for both sexes and the minimum death benefit eliminated, and that the use the Civil Service formula. Both changes, I fear, would not inure to the benefit of women.

The problems of the U.S. Department of Labor center on: First, the survivor's disability and death benefits under the Compensation Act, which requires a widower to be dependent on the decedent, but does not have such dependency requirement for widows, and second, on the new amendments to the work incentive program of the Social Security Act which exempt from registration a mother or other female caretaker of a child, if the father or other adult male relative is in the home, with no similar exemption for male caretakers, and give differing priorities in the priorities for placement in work and training programs, in that first priority is given to unemployed fathers, second priority to mothers who volunteer for participation, and third priority to other mothers and pregnant women under 19 years of age.

Interestingly, the letter from Secretary Hodgson concludes:

Your letter also asked for a cost estimate on eliminating the differences in treatment of men and women under these provisions. Such an estimate may not be feasible, however, as "equality" under the equal rights amendment may be achieved either by broadening definitions so that the sex discriminated against gets greater benefits or by narrowing those definitions to cover fewer persons of both sexes.

This is indicative of the problem which cannot be left to the courts, but must be determined by us as responsible Legislators.

But, these problems—and I put the word "problems" in quotes—pale when we turn to those some of the other agencies will encounter.

(3) SOCIAL SECURITY "PROBLEMS" UNDER EQUAL RIGHTS AMENDMENT

The Department of Health, Education, and Welfare, Social and Rehabilitation Service, not only administers the new work incentive provisions of the social security law—Public Law 92-223, effective July 1, 1972—which the Secretary of Labor referred to, but its Social Security Administration also administers the black lung program, title IV of the Federal Coal Mine Health and Safety Act of 1969, providing benefits for miners based on the number of dependents he has—and a dependent is defined as a wife or child, and payments to his widow based on the number of dependents after his death. This statute concededly is easy to amend to provide for women miners and their dependents.

But when it comes to Old-Age, Survivors, and Disability Insurance under title II of the Social Security Act and medicare, under title XVIII of that act, we are faced with a different problem.

I read from the response of Secretary Richardson on this subject:

Old-Age, Survivors and Disability Insurance, Title II of the Social Security Act. In the area of entitlement to benefits, the conditions of eligibility of a wife differ from those of a husband. A wife is eligible at age 62 whether or not dependent on her wage-earner husband, or below age 62 if he has a child in her care. The husband, on the other hand, is eligible at age 62 only if he meets a test of dependency on his wage-earner wife. Further, certain divorced wives are eligible for wife's benefits as wives if they meet a test of dependency on their former husbands; a divorced husband is not eligible on the earnings record of his former wife (42 U.S.C. 402 (b), (c)). Likewise, after death, a widow is eligible if she is not married, regardless of dependency; a widower is eligible only if dependent and only if he has not remarried. Again, a divorced wife is eligible if dependent; a divorced husband is not eligible (sec. 402 (e), (f)). Provision is made also for mother's insurance benefits but not for fathers' benefits (sec. 402(g)). (Distinguish this last from parent's benefits, section 402(h)).

In determining net earnings from self-employment, the income from community property generally is considered the husband's income (sec. 411(a)(5)).

In determining insured status and in computing the amount of benefits to which a beneficiary may be entitled, the cutoff year for women is age 62, for men age 65 (sec. 414(a), 415(b)).

Child eligibility is largely based on the right to inherit from the wage-earner. There is a special provision to make eligible an illegitimate child on the earnings record of its father from whom it has no such right; no such provision is ordinarily necessary to make it eligible on its mother's earnings record (sec. 416(h)).

In determining special insured status and benefit rates for disability benefits, the cutoff year for women is age 62, for men age 65 (sec. 416(1), 423 (a)(2), (c)(1)).

A transitional provision which provides benefits for individuals with less than the normally required quarters of coverage covers individuals and their wives and widows, but not husbands and widowers. (sec. 427).

In the so-called "Prouty" provision, which also provides benefits to certain persons otherwise ineligible, when a husband and wife are both entitled, the husband gets the bigger benefit.

MEDICARE—TITLE XVIII OF THE SOCIAL SECURITY ACT (SEC. 1395FF.)

This title does not in terms differentiate between men and women; however, entitlement under Part A (Hospital Benefits) of the title depends (except for certain transitional cases) on entitlement to benefits under sec. 402 above. Accordingly, it is easier for a non-working wife to become entitled to hospital insurance benefits on her husband's earning

record than for a nonworking husband to become entitled on his wife's.

Some, but not all, of the above discriminatory provisions will be eliminated if the pending H.R. 1 is enacted in the form passed by the House of Representatives.

When we asked for present program costs, such figures were readily available. The estimate of the additional costs of programs administered in the Department, were the equal rights amendment to be enacted, has as yet not been officially furnished me—but these dollar amounts, I am certain will interest my colleagues in determining which way legislation is to go—although this factor would not be a consideration for the courts were we to relegate our legislative function to courts to determine whether to extend benefits now available to women to men or to reduce benefits now available to women but not to men.

The figures furnished me as to present cost under the old-age, survivors, and disability insurance programs are:

Payments to beneficiaries in current payment status for calendar year ending December 31, 1971 covered 27,290,000 beneficiaries and were $33.4 billion for Old-Age and Survivors Benefits and $3.8 billion for Disability Insurance, or a total of $37.2 billion.

Payments under Medicare for the calendar year ending December 31, 1971 under the Hospital Insurance Program were $5.8 billion and $2.1 billion under the Supplementary Medical Insurance program for a total of $7.9 billion under Medicare.

I am advised that if the H.R. 1 computation of benefits, based on an age 62 computation for both men and women, graded on the last 3 years of earnings is to be applied only prospectively, the cost for the 12-month period beginning July 1972 will amount to an additional $6 million.

But, if the computation is to be equal, under the equal rights amendment, it must be applied to those men presently on the rolls and receiving benefits as well as those men and women who will become eligible in fiscal year 1973. That, I am informed unofficially, will cost in the neighborhood of an additional $1 billion for the first few years.

H.R. 1 is now before the Senate Finance Committee—full committee action has not yet been taken.

Can we unknowingly, unconcernedly, and uncaringly increase the costs of this program by $1 billion a year for the next few years just by enactment of House Joint Resolution 208—or should we pause and figure this out carefully?

I suggest the latter course is the one we should follow as responsible legislators.

For the information of my colleagues, I ask unanimous consent that the letter to me of Secretary Richardson, dated March 2, 1972, and its attachments be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

MILITARY SERVICE PROBLEMS UNDER THE EQUAL RIGHTS AMENDMENT

Mr. FONG. Mr. President, the balance of the replies I received to my inquiry as to the effect House Joint Resolution 208 would have on legislation administered by a department or agency involved replies from the Department of Defense, covering service in the Army, Navy, and Air Force; the Selective Service System, involving the draft; the Department of Transportation, covering the Coast Guard; the Department of Commerce, involving the merchant marine; and the Veterans' Administration, involving veterans' benefits.

DEPARTMENT OF DEFENSE

In answer to my request for a list of laws administered by the Department which might be affected by House Joint Resolution 208, the Department sent me a printout of the Federal statutes—I have it here. It is, as you can see, on sheets approximately 15 by 12 inches and is 1½ inches thick—a total of 1,285 documents.

Neither the Department of Defense nor I have as yet been able to analyze this information. Accordingly, I shall not at this time insert it in the RECORD.

Nor, in their letter of February 24, 1972, could the Department of Defense determine the precise effect of the amendment on individual statutes. In lieu thereof, they sent me a copy of a letter of like date to Senator BAYH in answer to his inquiry.

While endorsing the equal rights amendment, that letter states:

We, like the Department of Justice, believe it important that full consideration be given to the complications and litigation that might result should the amendment be adopted.

Depending on how the amendment was interpreted, the Department of Defense feels that two basic types of problems might arise—(1) those related to a requirement for assigning women to all types of duty, including combat duty, and (2) those related to whether or not separate facilities would be allowable and/or feasible to protect the privacy of both men and women.

At the request of the House Subcommittee Chairman, Mr. Rehnquist sent a letter dated May 7, 1971 to the Subcommittee detailing the effect of the enactment of the Equal Rights Amendment on several areas of law including the military draft. With respect to the draft, the letter stated:

"The question here is whether Congress would be required either to draft both men and women or to draft no one. A closely related question is whether Congress must permit women to volunteer on an equal basis for all sorts of military service, including combat duty. We believe that the likely result of passage of the equal rights amendment is to require both of those results. As has been pointed out by many of the amendment's supporters that would not require or permit women any more than men to undertake duties for which they are physically unqualified under some generally applied standard.

"To what extent such integration of the services would extend to living conditions and training and working units is uncertain. Proponents have indicated that some segregation would be permissible."

Further, there is the possibility that assigning men and women together in the field in direct combat roles might adversely affect the efficiency and discipline of our forces.

On the other hand, if women were not assigned to duty in the field, overseas, or on board ships, but were entering the armed forces in large numbers, this might result in a disproportionate number of men serving more time in the field and on board ship because of a reduced number of positions available for their reassignment.

If this amendment allowed no discrimination on the basis of sex even for the sake of privacy, we believe that the resulting sharing of facilities and living quarters would be contrary to prevailing American standards.

Even if segregation of living quarters and facilities were allowed under the amendment, during combat duty in the field there are often, in effect, no facilities at all, and privacy for both sexes might be impossible to provide or enforced.

Mr. President, I ask unanimous consent that my correspondence of February 24, 1972, with the Department of Defense on this subject be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 3.)

Mr. FONG. Mr. President, if women were not drafted and assigned to duty on the same basis as men, as the Department of Defense points out, the practice would be discriminatory against men—and I suggest to you unconstitutional under the equal rights amendment.

As to the question of privacy—we talk of the "language" of *Griswold* v. *Connecticut*, 381 U.S. 479 (1965). That case involved Connecticut statutes prohibiting the use of contraceptives and the guilt of accessories to any offense. The appellants in that case were found guilty as accessories and "raise(d) the constitutional rights of the married people with whom they had a professional relationship."—Mr. Justice Douglas in Opinion of the Court. After citing the "freedom to associate and privacy in one's association"—*NAACP* v. *Alabama*, 357 U.S. 449—and the fact that "the first amendment has a penumbra where privacy is protected from governmental intrusion; the fact that the specific guarantees of the third amendment—prohibiting quartering of soldiers in any house in time of peace without the consent of the owner—the fourth amendment—guaranteeing right of persons to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, the fifth amendment—self-incrimination clause—and the ninth amendment—assuring the people that the enumeration of certain rights in the Constitution shall not be construed to deny or disparage others retained by the people—all "have penumbras, formed by emanations from those guarantees—that is, in the Bill of Rights—that help give them life and substance," the court held the Connecticut statute forbidding the use, and I stress the word "use," of contraceptives, as specifically distinguished from the regulation of their manufacture or sale, as having a destructive impact upon the marital relationship and hence unconstitutional.

Mr. Justice Goldberg, with whom the Chief Justice—Warren—and Mr. Justice Brennan joined, also discussed the "fundamental" personal right of privacy retained by the people and agreed that the conviction should be reversed.

Yet, based on a differing set of facts—"a more discriminately tailored statute, which does not like the present one sweep unnecessarily broadly, reaching beyond the evil sought to be dealt with

and intruding upon the privacy of all married couples"—quote from Mr. Justice Goldberg—and the demand of either a man in service, a woman in service who desires to share facilities and the expediency of the situation, is not the Court likely to sustain a regulation such as the Department of Transportation proposes to promulgate for the Coast Guard so as "to allow female members of the crew to share—toilet and washing—facilities without restriction as to sex?"

I ask unanimous consent that a copy of the proposed rulemaking excerpt from the Federal Register, volume 37, No. 10—Saturday, January 15, 1972, and the extension of time for comments from the Federal Register, volume 37, No. 42—Thursday, March 2, 1972, be printed in the RECORD at the conclusion of my statement.

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

(See exhibit 4.)

Mr. FONG. Mr. President, if this amendment is to assure "equal treatment" under law, and a member of either sex alleges that separate treatment is not equal, is the Court not likely to distinguish that case from that of Griswold against Connecticut and hold that the right of privacy, which they carefully evolved from the Bill of Rights to meet a special situation violative of the sanctity and privacy of marriage, would not be extended to force those who are demanding equal rights not to surrender any rights of privacy.

This amendment, specifically giving "equal rights" might well be in derogation of those "rights of privacy" the Court sought to sustain in the Griswold case.

My own opinion is that this amendment could well and will likely be interpreted as in derogation of any unequal or separate treatment of persons based upon sex—as apparently the Department of Transportation feels is the correct interpretation.

However, even assuming that the legislature shall determine that separate facilities are warranted and the courts agree they are permissible under this amendment, what are the costs likely to be involved? As responsible legislators, while it should not be all-controlling, the cost should be considered.

These additional costs apparently are even impossible of estimation at this time.

In answer to my specific inquiry of the Department of Defense, the Department by letter of March 13, 1972, replied:

The Department has not made such estimates and without specific programs for such "equal" service, it is impossible to make any estimate. One of the major areas that would contribute to increased costs would be separate facilities, both in terms of living quarters, as well as working facilities in areas where women are not currently stationed.

Until a definitive plan is developed indicating where and under what circumstances women would serve in isolated areas, with combatant forces, aboard ships, etc., it is not possible to make a definitive estimate of costs. If extensive additional facilities or modifications to current facilities were required, the costs could be considerable.

(5) WOMEN VOLUNTEERS IN ARMED FORCES

We have heard much on the subject of the desire of women to serve in Armed Forces and to secure the benefits by way of education, loans, and so forth, available to veterans:

As of January 31, 1972, the Army had 12,186 enlisted women, 1,026 women officers;

As of March 1972, the Air Force had 11,259 enlisted women, 1,226 women officers;

As of December 30, 1971, the Marine Corps had 1,931 enlisted women. 280 women officers; and

The Navy has 5,674 enlisted women on "line duty"—that is, not in the health field, and 677 women officers.

There are on active duty, in all services, including staff, a total of 44,000 to 45,000 women.

I am also informed by the Department of Defense that while the pay increase has helped recruitment of women, the Air Force and Navy are just about meeting their desired strength. The Army and Marine Corps still have not reached full strength:

Are women so anxious to serve in our Armed Forces? Surely more would volunteer and enlist if these were the facts. More particularly, are they anxious to serve on combat duty?

(6) DRAFTING OF WOMEN FOR ARMED FORCES

If the equal rights amendment becomes part of our Constitution, women will be subject to the draft; that is conceded.

The Selective Service System by letter of February 25, 1972, advises:

Should the legislation administered by our agency be affected by the amendment proposed in H.J. Res. 208, we would be required to register approximately two million more persons a year, twice the present number, with additional cost resulting in the areas of registration. If the additional registrants are further processed, additional costs for classification, examination and induction would result. Roughly, these costs would be doubled. The cost of operating national headquarters, the states' headquarters and the service centers, would not be materially increased but the work of the local boards and their employees would reach twice its present level.

In more specific terms, in our budget for F.Y. 1973, service to registrants is $64,726,000. To double the number of registrants might not double the cost of this phase of our activity, but would substantially increase this item. Our examination services, budget at $1,107,000, is more closely related to the size of calls by the Department of Defense than to the number of registrants, and might not be substantially increased. Costs of administrative services and other activities would undoubtedly increase, but should not be doubled.

If we register 2 million women a year, what is the Department of Defense to do with them; especially, if they are not to be assigned to duty on the same basis as men? Is it worth the expenditure of $64 million a year just to register women as they attain the age of 18 years.

I submit to the Senate that the money could be used to better advantage elsewhere. And, as I indicated in the individual views which I filed to the Judiciary Committee report, drafting of women for compulsory military service, especially in view of the small number now volunteering for service, is something I cannot support.

Even as I have indicated, if we were to amend all Federal laws so as to provide equality of treatment for men and women—including equal benefits for men and women as a result of their military service, so that their "widows" and "widowers", their "dependents," their inservice and post-service benefits were equalized—I am not willing to support compulsory military service for women.

So that my colleagues may be aware of the effects of the equal rights amendment on the Coast Guard legislation, I ask unanimous consent that the letter of the Department of Transportation dated February 25, 1972 be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 5.)

Mr. FONG. Mr. President, so that my colleagues may be aware of the difficulties the equal rights amendment will cause in connection with the merchant marine, I ask unanimous consent that the letter of the General Counsel of the Department of Commerce dated February 25, 1972, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered

(See exhibit 6.)

Mr. FONG. Mr. President, to point up the Veterans' Administration problem, I ask unanimous consent that the letter of the Administrator dated February 28, 1972, be printed in the RECORD at the conclusion of my statement.

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

(See exhibit 7.)

CONCLUSION: WHAT DOES THIS ALL MEAN?

Mr. FONG. In my opinion, with this background we are ready to face, and I trust solve, the real problems which will face us on passage of this equal rights amendment.

As responsible legislators, we must revise our Federal laws so that women are not disadvantaged because of sex.

However, it is my firm conviction that the great majority of American women do not wish to be drafted to serve in our Armed Forces or to perform combat duty. I, for one, am not ready to compel them to be drafted and to force them to become combatants. With this reservation, whether this amendment passes in its present form or not, I am preparing to introduce extensive amendments to our present laws, so that women will be treated equally under Federal law. I urge my colleagues to join as cosponsors of such legislation.

We can do no less—our Nation, our conscience demands that so that each woman is enabled to use her full abilities, training, and talents for the benefit of this Nation and all its people.

Each State must do the same—each State legislature must also review and revise its laws so that archaic detrimental provisions are eliminated and laws which benefit its citizens are extended to encompass both men and women, regardless of sex.

EXHIBIT 1

U.S. DEPARTMENT
OF LABOR, EMPLOYMENT
STANDARDS ADMINISTRATION,
WOMEN'S BUREAU,
Washington, D.C.

STATUS OF STATE HOURS LAWS FOR WOMEN SINCE PASSAGE OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

In 1963, 40 States and the District of Columbia had maximum hours laws for women in one or more occupations or industries.[1] In 1971 only 12 States retain such laws without major exclusions or change of status.

State laws providing special restriction or benefit for employed women in this country were enacted in the early 1900's, primarily to alleviate the poor working conditions and long hours to which women were subjected. After the passage of title VII of the Civil Rights Act of 1964, the status of these laws began to change. By 1969 the Equal Employment Opportunity Commission (EEOC), which administers title VII, had determined that the special restrictions originally designed to protect women now tend to discriminate rather than protect. In a few instances State-required benefits for women, such as premium pay for overtime, were extended to men.

The rapidly changing status of State hours laws specifically shows a trend toward the lessening of restrictions for working women through one or more of the following actions:

States have repealed hours laws or amended them to provide for voluntary overtime or have increased exemptions from hours laws;

State attorneys general have issued opinions invalidating hours laws for all female employees covered under title VII;

Courts have repeatedly, with few exceptions, invalidated State hours laws for women.

REPEALS

Since the enactment of title VII, the following 10 States have repealed their maximum hours laws for women:

Arizona—1970.
Colorado—1971.
Delaware—1965.
Montana—1971.
Nebraska—1969.
New Jersey—1971.
New York—1970.
Oregon—1971.
Vermont—1970.
Wisconsin—1971.[2]

ATTORNEY GENERAL OPINIONS

The following 13 jurisdictions have had attorney general opinions which conclude that their hours laws are not applicable to employers covered under title VII:

California—6/24/71.
District of Columbia—3/25/70 (by Corporation Counsel)
Illinois—10/2/70.
Kansas—1969 (by Commissioner of Labor).
Massachusetts—9/30/70, 3/5/71.
Michigan—12/30/69.
North Dakota—4/18/69.
Oklahoma—12/5/69.
Pennsylvania—11/4/69.[3]
Rhode Island—6/18/70.
South Dakota—2/27/69.
Washington—5/26/70.
Wisconsin—7/27/70.

The Attorney General of Kentucky has determined that the State hours laws will remain in effect until the U.S. Supreme Court holds otherwise, and the North Carolina Attorney General has stated that the hours laws in that State will remain in effect until a Federal court rules otherwise.

Footnotes at end of article.

FLSA COVERAGE

Since the passage of title VII, several States have exempted from the State hours laws employees who are covered under the provisions of the Federal Fair Labor Standards Act (FLSA).

All employees covered under FLSA are exempt from the State hours laws in:

Maryland—1969.
North Carolina—1967.
Tennessee—1969.
Virginia—1970.

VOLUNTARY OVERTIME

Two States amended their hours laws to provide for extended hours for women on a voluntary basis:

New Mexico—1969.
Texas—1971.

COURT DECISIONS

Federal courts have recently held that the State hours laws conflict with title VII in the following States:

California—1971.
Illinois—1970.
Massachusetts—1971.
Ohio—1971.[4]
Pennsylvania—1971.

HOURS LAWS RETAINED

Only 12 States retain hours laws at this time without major exclusions or change in status since 1964.[5] (Some States among these 12 provide for extended working hours for women by special permit from the State labor department under emergency conditions. States vary in definition of emergency and length of time for which such extensions are granted. In Minnesota, however, the labor department may grant a permanent exemption at its discretion; this provision has been used where employers and their employees apply for an exemption from the hours limitation on th basis of sex discrimination.) The States are:

Arkansas.
Connecticut.
Kentucky.
Louisiana.[6]
Maine.
Minnesota.
Mississippi.
Missouri.[6]
Nevada.
New Hampshire.
South Carolina.
Utah.

STATES WITH EQUAL RIGHTS PROVISIONS

One added development may have a long term effect on State protective legislation. Three States—Illinois, Pennsylvania, and Virginia—have ratified equal rights provisions which are included in their State constitutions. A similar provision will be voted upon by Texas citizens in the November 1972 elections.

FOOTNOTES

[1] The only States without such laws exclusively for women in 1963 were: Alabama, Alaska, Florida, Georgia, Hawaii, Idaho, Indiana, Iowa, West Virginia, and Wyoming.

[2] Another hours law was enacted, however, which applies to women employed in hotels and motels and resorts only; other women are not restricted in the hours they may work.

[3] The Attorney General opinion stated that the State Human Rights Act impliedly repeals the hours law for women, as does title VII.

[4] In a State court, a contrary decision is being appealed.

[5] In some instances different State offices have given dissimilar interpretation of the status of their State hours laws.

[6] In Louisiana and Missouri, Federal court decisions in 1968 and 1970, respectively, dismissed class actions brought by women to strike down the State hours laws.

October 22, 1971 (rev.), WB–72–104.

EXHIBIT 2

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., March 2, 1972.

Hon. HIRAM L. FONG,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FONG: Thank you for your letter of February 9, 1972, requesting a description of the statutes administered by this Department which treat men and women differently. I enclose a list of such legislation, their citations in the United States Code, and an explanation of the distinctions which they make between men and women.

The enclosure should be considered preliminary only. In the short time available, we have not been able to complete an exhaustive review of all the statutes administered by the Department. Likewise, there has not been sufficient time to perform the complex task of estimating the additional costs of programs administered under these laws were H.J. Res. 208, the Equal Rights Amendment, to be adopted.

I hope that the enclosed information will be helpful to you in your consideration of the Amendment. Should you wish more detailed information, I shall be happy to direct that a further report be made for you.

With best regards,
Sincerely,

ELLIOT L. RICHARDSON,
Secretary.

PRELIMINARY LISTING OF DHEW ADMINISTERED LEGISLATION WHICH DISTINGUISHES BETWEEN MEN AND WOMEN

LEGISLATION ADMINISTERED BY THE SOCIAL SECURITY ADMINISTRATION

Black Lung Benefits Program Title IV of the Federal Coal Mine Health and Safety Act of 1969. If there were women coal miners, their husbands and widowers would not have the rights under this program of wives and widows of male coal miners. For the purposes of these benefit provisions, the term "dependent" is defined as a wife or child (30 U.S.C. 902); and benefits are payable to a miner during his lifetime based on the number of dependents he has, and to his widow also based on the number of dependents after his death (30 U.S.C. 922, 924).

2. *Old-Age, Survivors and Disability Insurance, Title II of the Social Security Act.* In the area of entitlement to benefits, the conditions of eligibility of a wife differ from those of a husband. A wife is eligible at age 62 whether or not dependent on her wage-earner husband, or below age 62 if she has a child in her care. The husband, on the other hand, is eligible at age 62 only if he meets a test of dependency on his wage-earner wife. Further, certain divorced wives are eligible to wife's benefits as wives if they meet a test of dependency on their former husbands; a divorced husband is not eligible on the earnings record of his former wife (42 U.S.C. 402 (b), (c)).[1] Likewise, after death, a widow is eligible if she *is not married*, regardless of dependency; a widower is eligible only if dependent and only if he *has not re-married*. Again, a divorced wife is eligible if dependents; a divorced husband is not eligible (sec. 402(e), (f)). Provision is also made for mothers' insurance benefits but not for fathers' benefits (sec. 402(g)). (Distinguish this last *from parent's benefits, section* 402(h)).

In determining net earnings from self-employment, the income from community property generally is considered the husband's income (sec. 411(a)(5)).

[1] All further section references herein are to Title 42, United States Code.

In determining insured status and in computing the amount of benefits to which a beneficiary may be entitled, the cutoff year for women is age 62, for men age 65 (sec. 414(a), 415(b)).

Child eligibility is largely based on the right to inherit from the wage earner. There is a special provision to make eligible an illegitimate child on the earnings record of its father from whom it has no such right; no such provision is ordinarily necessary to make it eligible on its mother's earnings record (sec. 416(h)).

In determining special insured status and benefit rates for disability benefits, the cutoff year for women is age 62, for men age 65 (sec. 416(i), 423(a)(2), (c)(1)).

A transitional provision which provides benefits for individuals with less than the normally required quarters of coverage covers individuals and their wives and widows, but not husbands and widowers (sec. 427).

In the so-called "Prouty" provision, which also provides benefits to certain persons otherwise ineligible, when a husband and wife are both entitled, the husband gets the bigger benefit.

3. *Medicare—Title XVIII of the Social Security Act* (Sec. 1395 ff.) This title does not in terms differentiate between men and women; however, entitlement under Part A (Hospital Benefits) of the title depends (except for certain transitional cases) on entitlement to benefits under sec. 402 above. Accordingly, it is easier for a nonworking wife to become entitled to hospital insurance benefits on her husband's earning record than for a nonworking husband to become entitled on his wife's

Some, but not all, of the above discriminatory provisions will be eliminated if the pending H.R. 1 is enacted in the form passed by the House of Representatives.

LEGISLATION ADMINISTERED BY THE SOCIAL AND REHABILITATION SERVICE

1. *Sec. 602(a)(19)* Under the recent amendments to this section (P.L. 92-223, sec. 3, effective July 1, 1972), unemployed men have priority over women in receiving services which would prepare them for employment.

2. *Sec. 607* This section provides for aid to families with children if the father is unemployed. There is no provision for aid to families with children where the mother is unemployed.

EXHIBIT 3

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE,
Washington, D.C., February 24, 1972.

Hon. HIRAM L. FONG,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FONG: This is in reply to your letters dated February 9, 1972 addressed to the Secretary of Defense and to the Secretaries of the Army, the Navy, and the Air Force requesting by February 28 a list of laws administered by the Department of Defense which would be affected should the Constitutional Amendment regarding equal rights for women be adopted as proposed in H.J. Res. 208.

We are making an attempt to identify the provisions of the United States Code administered by the Department of Defense which would be affected. Should we be successful in the time allotted, the list will be forwarded to you.

For the reasons stated in our letter to Senator Bayh, a copy of which is attached, the Department of Defense is unable to make a determination as to the precise effect of the Amendment on individual statutes.

Sincerely yours,

J. FRED BUZHARDT.

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE,
Washington, D.C., February 24, 1972.

Hon. BIRCH BAYH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAYH: This refers to your letter of February 2, 1972, with respect to H.J. Res. 208 "Proposing an amendment to the Constitution of the United States relative to equal rights for men and women."

With respect to your first question, Mr. Rehnquist stated in his testimony before Subcommittee No. 4 of the House Judiciary Committee on April 1, 1971, that the President in 1968 endorsed the Equal Rights Amendment which is presently embodied in H.J. Res. 208 now pending before the Senate Judiciary Committee. The President and this Administration continue to wholeheartedly support the goal of establishing equal rights for women.

With respect to your second question, we, like the Department of Justice, believe it important that full consideration be given to the complications and litigation that might result should the amendment be adopted.

Depending on how the amendment was interpreted, the Department of Defense feels that two basic types of problems might arise—(1) those related to a requirement for assigning women to all types of duty, including combat duty, and (2) those related to whether or not separate facilities would be allowable and/or feasible to protect the privacy of both men and women.

At the request of the House Subcommittee Chairman, Mr. Rehnquist sent a letter dated May 7, 1971 to the Subcommittee detailing the effect of the enactment of the Equal Rights Amendment on several areas of law including the military draft. With respect to the draft, the letter stated:

"The question here is whether Congress would be required either to draft both men and women or to draft no one. A closely related question is whether Congress must permit women to volunteer on an equal basis for all sorts of military service, including combat duty. We believe that the likely result of passage of the equal rights amendment is to require both of those results. As has been pointed out by many of the amendment's supporters that would not require or permit women any more than men to undertake duties for which they are physically unqualified under some generally applied standard.

"To what extent such integration of the services would extend to living conditions and training and working units is uncertain. Proponents have indicated that some segregation would be permissible.

Further, there is the possibility that assigning men and women together in the field in direct combat roles might adversely affect the efficiency and discipline of our forces.

On the other hand, if women were not assigned to duty in the field, overseas, or on board ships, but were entering the armed forces in large numbers, this might result in an disproportionate number of men serving more time in the field and on board ship because of a reduced number of positions available for their reassignment.

If this amendment allowed no discrimination on the basis of sex even for the sake of privacy, we believe that the resulting sharing of facilities and living quarters would be contrary to prevailing American standards.

Even if segregation of living quarters and facilities were allowed under the amendment, during combat duty in the field there are often, in effect, no facilities at all, and privacy for both sexes might be impossible to provide or enforce.

We appreciate the opportunity to share our concerns with you and state what the implications might be for the Department of Defense should the Equal Rights Amendment be adopted.

Sincerely yours,

J. FRED BUZHARDT.

EXHIBIT 4

PROPOSED RULEMAKING

DEPARTMENT OF TRANSPORTATION—COAST GUARD

[46 CFR Parts 72, 92, 190]

[CGFR 72-4]

WASHROOMS AND TOILET ROOMS

Proposed Unrestricted Use of Facilities by Female Crewmembers

The Coast Guard is considering amending the construction and arrangement regulations to allow female members of the crew to use washrooms and toilet rooms that are also used by a male crewmember.

Interested persons may participate in this proposed ruling making by submitting written data, views, or arguments to the U.S. Coast Guard (CMC), Washington, D.C. 20590. Each person submitting comments should include his name and address, identify the notice (CGFR 72-4), and give reasons for any recommendations. Comments received will be available for examination by interested persons in Room 8234, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC.

The Commandant, U.S. Coast Guard will evaluate all communications received before February 18, 1972, and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

Current regulations for passenger, cargo, miscellaneous, and oceanographic vessels require female crew members to have toilet and washing facilities in separate spaces from the facilities for other crew members. The tank vessel regulations are silent as to the required accommodations for the female members of the crew. The Coast Guard has found that the present passenger, cargo, miscellaneous, and oceanographic vessel regulations are unduly restrictive on most modern vessels which usually have facilities that are attached to rooms. In addition, the Coast Guard has determined that the present regulations may have been the basis for unintended discriminatory practices in the hiring of females for service aboard merchant vessels.

Accordingly, the Coast Guard proposes to amend §§ 72.20-25, 92.20-25, and 190.20-25 to allow female members of the crew to share facilities without restriction as to sex.

In consideration of the foregoing, it is proposed to amend Chapter I of Title 46, Code of Federal Regulations as follows:

1. By revoking §§ 72.20-25(b)(3), 92.20-25(b)(3), and 190.20-25(b)(3).

These amendments are proposed under the authority of R.S. 4405, as amended (46 U.S.C. 375), R.S. 4462, as amended (46 U.S.C. 416), section 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1); and 49 CFR 1.46(b)).

Dated January 11, 1972.

W. F. REA, III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 72-622 Filed 1-14-72; 8:46 am]

DEPARTMENT OF TRANSPORTATION—COAST GUARD

[46 CFR Parts 72, 92, 190]

[CGFR 72-38]

WASHROOMS AND TOILET ROOMS

Extension of Time for Comments

The Coast Guard published a notice of proposed rule making, CGFR 72-4, in the FEDERAL REGISTER of Saturday, January 15, 1972 (37 F.R. 676), that proposed changes to the construction and arrangement regulations to allow female members of the crew

to use washrooms and toilet rooms that are also used by male crewmembers.

In that document, commenters were given until February 18, 1972, to submit written data, views, or arguments. In response to the proposal, the Coast Guard has received written requests for extension of time to comment.

Extension of time is considered reasonable to allow all interested parties adequate opportunity to submit written data, views, arguments, and comments on the amendments proposed in CGFR 72-4.

In consideration of the foregoing, the time for submitting written data, views, arguments and comments proposed in CGFR 72-4 is extended to 20 March 1972.

(R.S. 4405, as amended (46 U.S.C. 375), R.S. 4462, as amended (46 U.S.C. 416), section 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Dated: February 25, 1972.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 72-3169 Filed 3-1-72; 8:54 am]

EXHIBIT 5

SECRETARY OF TRANSPORTATION,
Washington, D.C., February 25, 1972.

Hon. HIRAM L. FONG,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FONG: This is in response to your inquiry of February 9, 1972 regarding the Equal Rights Amendment to the Constitution—H.J. RES. 208. You have inquired as to the affect of such an amendment on Federal legislation administered by the Department of Transportation should the Amendment become part of our Constitution. You also requested that I submit the following information: (1) a list of present Federal legislation administered by the Department which treats men and women differently—whether the discrimination is "beneficial" or "detrimental" to men or women; (2) the effect nullification of these "discriminatory" provisions will have on the persons affected; and (3) the estimated additional costs to the taxpayer if the beneficial effects of each affected legislation were extended to both sexes.

Within the Department of Transportation we do not have any Federal legislation which discriminates between the sexes except legislation administered by the United States Coast Guard. Therefore, the Federal legislation administered by the Department, with the exception of the United States Coast Guard, will not be affected should H.J. RES. 208 become part of our Constitution.

With regard to the United States Coast Guard, an initial review of the statutes in the time available indicates that the following provisions administered by the Coast Guard treat men and women differently:

(a) Title 10, §§ 505, 510, 591, 651, 1036, 1038, 1040, 1072, 1076-80, 1083-87, 1485-86, 2002, and 2031;

(b) Title 14, §§ 371-73, 762, 775, 780, 787 and 796;

(c) Title 33, §§ 771-72; and

(d) Title 37, §§ 401, 403, 405, 405a, 406, 406a, 407, 409, 427, 551, and 553-56.

Additionally, the provisions of Title 14 consistently use the term "enlisted men" or variations thereof. This may in some cases be read to include women enlisted members although clarification would be appropriate under the provisions of H.J. RES. 208.

If the amendment requires the United States Coast Guard to treat the sexes equally, clearly there will be many complex issues which will have a decided impact on the United States Coast Guard. However, at this time I am not able to predict the effect the nullification of the "discriminatory" provisions will have on persons affected.

Moreover, at the moment it is impossible to estimate the costs or administrative burden if the beneficial effects of the affected legislation were extended to both sexes. Much depends upon how literally the proposed amendment to the Constitution will be interpreted. As more definition attaches to the prospective operation of the proposed amendment, some specific estimate would be possible. Until that time no meaningful figures can be projected.

I hope that this information will be helpful to you in your deliberations.

Sincerely,

JAMES M. BEGGS,
Acting Secretary.

EXHIBIT 6

GENERAL COUNSEL OF
THE DEPARTMENT OF COMMERCE,
Washington, D.C., February 25, 1972.

Hon. HIRAM L. FONG,
United States Senate,
Washington, D.C.

DEAR SENATOR FONG: This is in reply to your recent letter relative to H.J. Res. 208, the proposed Equal Rights Amendment to the Constitution and your request of this Department for a listing of present statutes administered by the Department which treat men and women differently, whether the discrimination is "beneficial" or "detrimental" to men and women.

We have reviewed the statutes administered by the Department and are aware of only one such statute that discriminates as to sex.

The Merchant Marine Act of 1936, 46 U.S.C. 1126(b)(1), limits nominees for Canal Zone vacancies at the U.S. Merchant Marine Academy to sons of residents of the Canal Zone and sons of personnel of the U.S. Government and the Panama Canal Co. residing in the Republic of Panama. Additionally, the Maritime Administration's Regulations, 46 CFR 310.53, state under general requirements for eligibility that all candidiates nominated are required to be male.

Admission of women students to the Academy would require certain changes in the physical accommodations. However, although it is not now possible to estimate the cost, it is not anticipated that it would be large.

Of additional interest in regard to your inquiry is section 112 of P.L. 92-65, the Public Works and Economic Development Act Amendments of 1971 under which the Department's Economic Development Administration operates. That section provides:

"No person in the United States shall, on the ground of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance under the Public Works and Economic Development Act of 1965."

It paraphrases Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, which Act does not include sex discrimination, only race, color or national origin.

Since Executive orders have the force and effect of law, we wish also to maintain Executive Order No. 11246 (30 FR 12319; 3 CFR 1964-65 Comp. 339) as amended by Executive Order No. 11375 (32 FR 14303). Executive Order No. 11375 added the requirement that equal employment opportunity both in Federal employment and in employment by Federal contractors be without discrimination on the basis of sex. This Department has been given the responsibility by the Department of Labor in administering Executive Order No. 11246, as amended, for companies in water transportation and in shipbuilding and repair in the coastal states. We are also responsible for compliance with Executive Order No. 11246, as amended, where direct Commerce construction or Commerce-assisted construction is involved.

Please let us know if we can be of any further assistance to you in this matter.

Sincerely,

WILLIAM N. LETSON,
General Counsel.

EXHIBIT 7

VETERANS' ADMINISTRATION,
Washington, D.C., February 28, 1972.

Hon. HIRAM L. FONG,
Subcommittee on Constitutional Amendments, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR FONG: This is in response to your inquiry of February 9, 1972, concerning legislation administered by the Veterans Administration that would be affected by the adoption of the Equal Rights Amendment to the Constitution of the United States as set forth in H.J. Res. 208, 92d Congress.

With limited exceptions, discussed below, the laws providing veterans' benefits make no distinction between a female veteran and a male veteran.

Section 102(b) of title 38, United States Code, provides that for the purposes of that title the term "wife" includes the husband of any female veteran who is incapable of self-maintenance and is permanently incapable of self-support due to mental or physical disability. This provision is pertinent with respect to—

(1) payment of additional disability compensation to veterans with service-connected disabilities for a "wife" (38 USC 315 and 335);

(2) payment of increased educational assistance and subsistence allowances to a veteran pursuing a course of vocational training and education for a dependent (38 USC chaps. 31 and 34); and

(3) reduction of benefits payable to a veteran receiving hospitalization or similar care by the Veterans Administration, if he does not have a "wife" (38 USC 3203).

Similarly, section 102(b) provides that for a "widower" to have the same status as a "widow" with respect to survivor benefits, the widower must have been incapable of self-maintenance and permanently incapable of self-support due to mental or physical disability at the time of the veteran's death. This provision is significant in connection with the payment of monetary benefits to a widower under our programs of—

(4) service-connected death compensation (38 USC chap. 11);

(5) service-connected dependency and indemnity compensation (38 USC chap. 13); and

(6) non-service-connected death pension (38 USC chap. 15).

The law (38 USC 1801(a)(2)) provides that the widow of a qualified veteran is eligible for the loan guaranty and direct loan benefits which the Veterans Administration administers if the veteran died of a service-connected disability and the widow is not eligible for the benefits as a result of her own service. Because of the provisions of section 102(b), a widower of a female veteran would appear to be eligible for—

(7) loan guaranty and direct loan benefits (38 USC chap. 37)

only if he was incapable of self-maintenance and permanently incapable of self-support due to mental or physical disability at the time of the veteran's death.

Also, chapter 35 of title 38, United States Code, provides certain educational assistance to the "widow" of any person who died of a service-connected disability; to the "wife" of any member of the armed forces serving on active duty who at the time of the application for benefits has been listed for 90 days or more as missing in action, captured in line of duty by a hostile force, or forcibly de-

tained or interned in line of duty by a foreign government or power; and to the "wife" of any person who has a total disability permanent in nature resulting from a service-connected disability or the "widow" of a veteran who died while a disability so evaluated was in existence. Again, because of the provisions of section 102(b), a husband or widower of a female veteran would be eligible for—

(8) educational assistance (38 USC chap. 35)

only if he is incapable of self-maintenance and permanently incapable of self-support due to mental or physical disability.

There is one other distinction in the area of benefits between male and female veterans. Section 601(4)(c)(ii) of title 38, United States Code, defines "Veterans' Administration facilities" for the purpose of hospital care to include private facilities for which the Administrator contracts for purposes of providing such care "for women veterans of any war." The historical reason for this provision was that the Veterans Administration did not have adequate facilities to provide for the hospital care of female veterans in all cases and it was deemed more appropriate to contract for their care as necessary than to equip special facilities for them. This provision, therefore, was incorporated in the law as a matter of administrative convenience rather than to afford female veterans an additional benefit. In our view, this does not constitute a denial or abridgment of equal rights of either male or female veterans, within the scope of the Constitutional amendment proposed by H.J. Res. 208.

We do not believe that we can answer your question as to what effect the nullification of the foregoing "discriminatory" provisions of law would have on our benefit programs, with any degree of accuracy. Certainly, some additional husbands and widowers would become eligible for, and be paid, monthly benefits and educational assistance benefits. Based on available information, as a magnitude estimate, we believe that some 300 persons might qualify during the first year at an approximate additional cost of $500,000. This cost should remain at about the same level for each of the succeeding four years. Of course, if it should become necessary for the agency to add, or convert, and equip special facilities at all of our hospitals and domiciliary installations for female veterans, this would occasion an additional cost of many millions of dollars.

For your information, the Veterans Administration has reported favorably on several bills introduced in the 92d Congress (S. 2660, pending before the Senate Committee on Veterans Affairs; H.R. 2505 and H.R. 3965, pending before the House Committee on Veterans Affairs) that propose to remove from the law the additional requirements that must now be met in the case of husbands and widowers, as discussed above. The House Committee on Veterans Affairs added such provisions to H.R. 12828, 92d Congress, the proposed "Veterans' Education and Training Amendments of 1972" which was ordered favorably reported by the Committee on February 24, 1972. These provisions, if enacted, would eliminate any discriminatory criteria governing our benefit programs.

Sincerely,

DONALD E. JOHNSON,
Administrator.

Mr. COOK. Mr. President, will the Senator from Indiana yield?

Mr. BAYH. Mr. President, I yield to the Senator from Kentucky such time as he requires.

Mr. COOK. Mr. President, amendment No. 1066 reads:

This article shall not impair the validity, however, of any laws of the United States or any State which exempt women from service in combat units of the Armed Forces.

Thank goodness, Mr. President, that Joan of Arc did not know she could be exempt from the draft when she decided to take the French people and beat the English in the 100 Years War and win the Battle of Orleans. And thank goodness that no soldiers in the two respective campaigns thought that there would be some inconvenience in the battlefield because men and women would be together.

I am delighted that they did not understand the problems they would have, because somehow or other, they had to win the war.

And thank goodness that out in Frederick, Md., one of the ladies of history, Barbara Fritchie, did not know she would have some exemption under the Constitution and did not have to enter combat when she said, "Shoot, if you must, this old gray head." She did not mind that she was going to be shot. She just did not want anybody fooling with the American flag.

Is it not amazing, Mr. President, that there would be placed in the Constitution something which states in essence that this is the way our country shall be based and that this is the right that you shall have under this Constitution, that somehow or other, by some stretch of the imagination, 53 percent of the population of this Nation, if this country were invaded, do not have any responsibility to defend it? I cannot imagine by the farthest stretch of my imagination that that is what you would want to say.

But let us look at modern warfare. The Senator from Hawaii had us in the fields in France and marching across the fields of Germany, but look at what combat means today, and see if it might not be a little different.

Combat today may be a lady sitting at a computer at a missile site in North Dakota. Does that mean that when it says she does not have to be in combat that she can get up and walk out?

I suggest it might be wise for us to understand and realize that there are many, many nurses today in Southeast Asia that are in combat zones and who are being paid combat pay. I would only suggest that this is another means by which somehow or other we want to clutter up one of the most remarkable documents in the world, the Constitution of the United States.

Mr. BAYH. Mr. President, will the Senator yield before he goes ahead? I do not want to interrupt the Senator.

Mr. COOK. I yield to the Senator from Indiana.

Mr. BAYH. With respect to the point the Senator just made, there are also WACS, WAVES, and WAFS in combat service, and the position taken by the distinguished chairman of the Committee on Armed Services earlier was that they were different than men who might otherwise be conscripted. If that is the case, that is not the way we have been training men.

I notice the Department of Defense report which I have before me shows the draftees comprise 88 percent of the infantry riflemen in ground combat units, and thus the casualty rate is higher for them than for others. Of course, with respect to women, it is our expectation that few if any will be in combat.

I think the Senator is very much on the mark to point out that there are women there right now.

Mr. COOK. Not only that but let me say something that is a little more serious. This Senator has four daughters. My oldest daughter ventured into a new life for her, I guess, on Saturday when she was married. I would hate to have something in the Constitution that she might tell her children that if they happened to be female they do not have to ever worry, because they will not have to defend their country, that they can depend on all their brothers to defend it; and if the percentage goes from 53 percent female, which it is now, to perhaps, 60 or 65 percent female, they do not have to worry about it, because they will not have to do their part if their country gets into a military conflict.

This kind of follows the pattern that men have had themselves involved in wars throughout history, when they ran across the countryside, and the women grabbed the children and tried to find a basement in which to hide. They did not know if they would have a place to sleep, but the soldier did. There was a kitchen for him when he finished combat that night, and a tent which would be waiting for him or which he could put up himself, but the lady who had been bombed out had nothing to do but to keep going and to beg someone down the road to give her something to eat and a place to sleep. But we do not have those kinds of wars any more in our part of the world. In other parts of the world unfortunately they do and women are subject to combat

I will refer Senators to the country of Israel where they do draft women and they are subject to military service. I do not think many people in Israel are without complete and absolute pride in their country, as they should have. We had many women who fought in our Civil War, and many women were involved in the underground in World War II in every country in Europe. It is a good thing their Constitution did not exempt them, because maybe they would have gotten used to the idea while they were growing up that they did not have a basic responsibility to their Nation.

I can only say to you, Mr. President, with respect to this business of talking about irrational and arbitrary laws, what is irrational and what is arbitrary about the necessity, if it should happen, and God forbid, I hope it never does, that all people of this Nation have to defend it? Are we then to say that, because my four daughters happen to be daughters and not sons that they have no responsibility to defend their country?

Mr. President, would you really write into the Constitution that this provision would apply not only to the Federal Government, but also to any laws of the States? Imagine the situation if there was an invasion of the United States which came through Texas from Mexico, and all of a sudden we said, "Do not worry about the Federal Constitution, because the Texas constitution says that

women do not have to enter into combat, so do not worry about it." We are not really trying to fight that constitutional question on the floor of the Senate. As a matter of fact, what we are really trying to do with simplistic and sound language is to do something that should have been done 200 years ago, and that is to provide that everybody in this Nation was created equal under the Constitution.

The Senator from Indiana and I have wondered for a long, long time about the laws we talked about in committee and the laws we talked about in earlier debate that a woman could not hold a job that required her to lift over 15 pounds. My wife is a pretty strong gal. She does not weigh a great deal, but she has raised five children and Mr. President, I will tell you that at a certain stage in life she lifted and carried around the house a whale of a lot more than 15 pounds. But we are going to protect her. That is what it says. We are trying to protect these women, because they do not want to do these things. Well, they have to do it every time they raise a child. According to some of the arguments we hear in the Senate we are supposed to preserve them for that right.

But what we are trying to say in this language is that there was a flaw in the Constitution when it was written, a flaw that said, in fact, all men shall be created equal and that "men" meant everyone. But it has been interpreted they did not mean everyone, all of us, that it only meant men, us, and that was a defect and that defect has to be corrected. Anybody who lives in this Nation, in the freest nation in the world, under our constitutional form of government, shall not be discriminated against.

Use whatever term you want—whether for "Miss" or "Mrs." we have to use "Ms." which no longer becomes material—a constitutional form of government applies to everyone. If any of my daughters want to go to law school and graduate, it means that the large law firms in the United States cannot come to that school in the senior year and interview only the men. By the way, of the 717,000 veterans in the United States, all of whom happen to be in the category commonly referred to as females, as veterans, they do not receive the same benefits under the GI Bill of Rights as men. That is what we are talking about.

So I would suggest to remember what combat used to be like, but remember what it is like today.

Remember that combat may mean the availability to punch only one button, and that the one button to make that missile go somewhere to solve a problem to avoid a holocaust for this country may be a button that is going to be pushed by a woman, and if you are going to exclude her from combat, perhaps you have lost before you have started.

So I would only suggest that we have many dilatory amendments, but I referred at the beginning of my remarks to the fact that I am glad that Joan of Arc and Barbara Fritchie did not have an opportunity to be dilatory, that they were responsible citizens of their respective nations, that they understood the job and responsibility they had at that time and in that place in history, and that they took it. They assumed it and they did not ask anybody—they asked no man—to make one slightest difference, because they were women. One of them was willing to give up her life, and the other did, and they went down in history as pretty remarkable people in their countries.

I thank the Chair.

Mr. GRIFFIN. Mr. President, it may be defensible to say that women should be drafted along with men so long as it is necessary to have a draft law in effect. There are many military assignments and duties that women can, and do, perform as well as men.

However, I do not believe that drafted women should be assigned to combat.

And I do not believe it would cripple or defeat Senate Joint Resolution 208 to adopt this modification to make clear that drafted women will not be made subject by the equal rights amendment to combat duty in the Armed Forces. I feel very certain that the House of Representatives would quickly accept and adopt this modification.

Indeed, this modification would merely make clear what most proponents of the equal rights amendment say it is supposed to mean. But, unfortunately, there is no assurance now that the courts would agree with such an interpretation in the absence of this modification.

Mr. President, I believe that this one clarifying modification, which would have the limited effect of exempting women from combat duty in the Armed Forces, is needed and should be adopted.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, I wish to compliment my colleague from Kentucky. He and I have stood shoulder to shoulder for quite some time on the Constitutional Amendments Subcommittee. I appreciate his eloquent opposition to the pending amendment.

Just one brief additional word to try to put into context just exactly what we are talking about here as a burden of the young women of America. Let me put in the RECORD here again so that we may have a consistent discussion vis-a-vis this amendment what I put in the RECORD the last time my friend from North Carolina was offering an amendment. I wish to show that if we look at the 1971 figures of the total male pool of eligible draftees, the figure is 1.9 million. Some 50.5 percent of them were rejected prior to induction. Another 24.9 percent were rejected at induction. So that, as of the time the draft calls went out, of the almost 2 million men eligible, only 98,000 were called, and only 94,092 were inducted.

The number of women who would pass through the screen applied, because of the physical strength requirements, in the judgment of the Senator from Indiana, would be significantly less, not based on sex, but based on the physical qualifications that might be needed in the various services.

Also I would like to reiterate what I said earlier, that less than 15 percent of those in the Armed Forces today are in combat branches. Add to this the fact that was alluded to earlier by the distinguished Senator from Kentucky that there are a number of women now serving in combat areas, and I think it puts the whole debate in proper perspective. I hope the Senate will not go along with this well-intentioned but unfortunately dilatory amendment of our distinguished colleague from North Carolina.

Mr. ERVIN. Mr. President, I yield myself such time on the bill as I may use.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ERVIN. Mr. President, it is apparent that some of the opponents of this amendment do not understand what it says. It does not prohibit sending women into combat; it merely says that the power of the Congress either to send or to refuse to send women into combat shall not be destroyed by the equal rights amendment.

If my amendment were adopted and Joan of Arc and Barbara Fritchie could be resurrected from the tongueless silence of dreamless dust in which they now sleep, the Congress of the United States could pass a law providing that both Barbara Fritchie and Joan of Arc could still be sent into combat.

All this amendment would do would merely be to say that Congress could be authorized to continue to legislate, in as intelligent a fashion as Congress is capable of legislating. It merely says that if Congress in its discretion refuses to send Joan of Arc and Barbara Fritchie, or their reincarnations, into combat, that power of Congress would not be stricken down by the equal rights amendment.

I do not know why my friends would want to put Congress in a straitjacket and compel it to send women into combat if there are plenty of men to make it unnecessary to send women into combat.

Furthermore, I do not know of any State in the Union that has a law which prohibits women from lifting more than 15 pounds. The Commonwealth of Massachusetts, to my recollection, once had such a law—I do not know whether it is still in force or not, but I submit if it is it would be invalidated by the equal protection clause of the 14th amendment.

My friend from Kentucky said that war is not quite as brutal as it used to be when men had nothing but sticks and rocks for weapons. It strikes me that war is far more brutal, because they have lethal weapons like poison gas that can consume a person's lungs and deprive them of the capacity to live. They have artillery that can blow their bodies into 50,000 pieces.

I would like to say the following words to every Senator who believes that Congress should be compelled in time of war to place the same obligations on women, as it does on men. Those who believe Congress ought not to have the power to wage war unless it sends the daughters of America into combat along with the boys of America, and who believes that women should suffer the same hazards as men, and who believe that Congress of the United States shall not have the power to exempt the daughters of America from being sent into battle to be slaughtered or maimed by bayonets, bombs, bullets, grenades, mines, napalm,

poison gas, and shells of the enemy, ought to vote for this amendment, and then they ought to go around to the fathers and mothers of America and say that "I voted to compel Congress, when it sends American boys into battle, to send American girls alongside them, whether there is any necessity for so doing or not."

Mr. President, I believe the yeas and nays have already been ordered, and for that reason I yield the floor and am ready to vote.

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

The PRESIDING OFFICER (Mr. TAFT). All remaining time having been yielded back, the question is on agreeing to the amendment No. 1066 of the Senator from North Carolina. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Minnesota (Mr. HUMPHREY). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting the Senator from Washington (Mr. JACKSON), the Senator from Alabama (Mr. SPARKMAN), the Senator from Maine (Mr. MUSKIE), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Washington (Mr. JACKSON) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Massachusetts (Mr. BROOKE) and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

If present and voting, the Senator from Massachusetts (Mr. BROOKE) would vote "nay."

The result was announced—yeas 18, nays 71, as follows:

[No. 114 Leg.]

YEAS—18

Bennett	Fannin	Long
Buckley	Fong	Miller
Byrd, Va.	Gambrell	Saxbe
Cooper	Griffin	Stennis
Eastland	Hansen	Talmadge
Ervin	Hollings	Thurmond

NAYS—71

Aiken	Chiles	Hatfield
Allen	Church	Hruska
Allott	Cook	Hughes
Anderson	Cotton	Inouye
Baker	Cranston	Javits
Bayh	Curtis	Jordan, N.C.
Beall	Dole	Jordan, Idaho
Bellmon	Dominick	Kennedy
Bentsen	Eagleton	Magnuson
Bible	Ellender	Mansfield
Boggs	Fulbright	Mathias
Brock	Gravel	McGee
Burdick	Gurney	McGovern
Cannon	Harris	Metcalf
Case	Hart	Mondale
Montoya	Randolph	Stevenson
Moss	Ribicoff	Symington
Nelson	Roth	Taft
Packwood	Schweiker	Tower
Pastore	Scott	Tunney
Pearson	Smith	Weicker
Pell	Spong	Williams
Percy	Stafford	Young
Proxmire	Stevens	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Byrd of West Virginia, for.

NOT VOTING—10

Brooke	Jackson	Muskie
Goldwater	McClellan	Sparkman
Hartke	McIntyre	
Humphrey	Mundt	

So Mr. ERVIN's amendment (No. 1066) was rejected.

Mr. ERVIN. Mr. President, I am glad that most Senators are too old to be sent into combat.

AMENDMENT NO. 1067

Mr. President, I call up Amendment No. 1067 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of section 1 add the following sentence: "This article shall not impair the validity, however, of any laws of the United States or any State which extend protections or exemptions to women.".

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

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, there are 32,975,000 women of the age of 16 years and up in the United States who are either employed or seeking employment outside their homes. A very small percentage of these women are business and professional women.

I am told that this amendment is backed by business and professional women. From my association with women in North Carolina, I confess that I am of the opinion that only a relatively small percentage of business and professional women favor this amendment.

The Senator from North Carolina realizes that society imposes discrimination in employment upon many women, both in respect to the compensation they receive and their promotional opportunities. These discriminations which are imposed upon women in this respect by the traditional customs and usages of society are not discriminations created by law and, for this reason, the equal rights amendment will not abolish discriminations of that character.

All of us who are familiar with the legislative action of the Congress and of the States in recent years know that Congress and the States have enacted much enlightened legislation which puts an end, if such legislation is properly invoked and enforced, to many of the discriminations against women in employment.

Moreover, the President of the United States and every department and agency of the Federal Government, and many of the executive agencies and departments of many States, have issued regulations prohibiting discrimination against women in employment in Federal and State services.

There is one group of women, however, who need no laws and need no regulations to abolish legally imposed discriminations against them.

That group is composed of business and professional women. Insofar as the law itself is concerned, business and professional women have the absolute legal right at the present moment, and without the equal rights amendment, to compete with men in all of the business or commercial activities of life. I wish to say, as I said in my opening remarks, that the submission of the equal rights amendment by Congress to the States and the ratification of the equal rights amendment by 38 States will not add one job or title to the position of business and professional women insofar as their legal rights to engage in business or commercial enterprises is concerned.

You know, Mr. President, the American people have a simplistic faith in law. Our great national delusion is based on the fact that we have a childlike faith that anything wrong in our civilization can be abolished by law and that all of life's problems lend themselves to legal solutions. It is doubtful whether many of the people who are in custody in institutions for the mentally ill in our land suffer under a greater delusion than that.

If this amendment is submitted by Congress to the States and is ratified by 38 States and made a part of the Constitution, all of the problems which life presents to women will remain. New problems will undoubtedly be presented to women from time to time by life. The chief effect of the equal rights amendment will be to handicap Congress and the legislatures of the 50 States in their efforts to solve the problems because the equal rights amendment says to the Congress and to the States that they must ignore the existence of sex when they attempt to solve the problems of women as well as when they undertake to solve the problems of men.

The most important fact in life is sex. No greater folly could be perpetrated than to place in the Constitution of the United States an amendment which says that Congress and the 50 States must absolutely ignore the existence of sex when they fashion the laws to solve the problems of men and women, all of whom belong to a sex.

As I stated in my opening remarks, borrowing the words of Omar Khayyam, the equal rights amendment will certainly shatter into bits what its militant supporters deem to be this sorry mess, this scheme of things in power, but it will not do anything to remold it nearer to their heart's desire.

One of the strange things about the solicitude which the proponents of the amendment profess to have for the vast majority of the 32,975,000 women who work or seek work outside of their homes, is that they seek to rob these women who do perform labor, other than intellectual labor, of all of the protections and all of the exemptions which those really concerned about them have fought for a century to secure for them.

A great many of these women belong

to unions which are affiliated with the AFL–CIO. I hold in my hand a newspaper clipping from the Washington Star for August 31, 1970.

At that time the so-called equal rights amendment—which would be far better designated as the unequal wrongs amendment—was under consideration and was exciting much comment. This newspaper clipping states the following:

AFL–CIO President George Meany says the Labor Federation opposes the women's liberation movement for absolute equality because millions of women union members don't want to give up the job protections they have won in federal and state laws.

There are laws in some states that women cannot work in coal mines, Meany said. Most women don't want to win the right to mine coal or to do other dangerous work, he said. For that reason, Meany said, AFL–CIO won't support the amendment to give women equality which was passed by the House and is pending in the Senate.

This amendment has been flitting around the halls of Congress since 1923. Some years ago it came before the Senate. One of the wisest men that ever sat in this body, former Senator Carl Hayden, the distinguished Senator from Arizona, told me that he was sitting in the Senate when the equal rights amendment came up for consideration and that he thought of a law that they had in Arizona which forbade employers to employ women to descend into the bowels of the earth in the copper mines of Arizona and mine copper.

I think that most people, except some of the business and professional women who work in offices, think that was a pretty good law. But they think that law should be nullified by a constitutional amendment. And that is one of the objectives of the amendment, to nullify that law.

The significant thing in this connection is that the women who are protected by laws of this kind are opposed to this amendment. One of the most knowledgeable women in this field and one of the wisest women I have ever had the privilege of knowing is Mrs. Myra K. Wolfgang, one of the chief officers of the Hotel and Restaurant Employees Union.

Mrs. Wolfgang knows whereof she speaks. She is a citizen. She is a woman. She is a widow. She is a mother. She is a worker. And she is a union official. She is an adamant and implacable foe of the equal rights amendment.

When the amendment was under consideration in 1970, the New York Times in its issue of September 10, 1970, made some comments concerning Mrs. Wolfgang's views. These comments were as follows:

A representative of working-class women told Congress today that the proposed equal rights amendment to the Constitution would bring to women such as herself only "an equality of mistreatment" by employers.

Myra K. Wolfgang, vice president of the Hotel and Restaurant Employes and Bartenders International Union, made the statement before the Senate Judiciary Committee.

The committee opened hearings today on the amendment, which passed the House last month. The amendment would prohibit any government, Federal, State or local, from denying any right to any individual because of sex. If the amendment were passed, Mrs. Wolfgang said, all state laws establishing maximum hours of work for women would be invalidated.

The result, she said, would be that many employers would force women to work longer hours than they wish to and longer hours than they are able to work while still taking care of their household responsibilities.

CONTRAST IN POSITIONS

Unrestricted hours of work "may be fine for lady lawyers" and other members of the National Federation of Business and Professional Women's Clubs, which is supporting the amendment, she said. "But it isn't fine for women working in the laundries, in the hotels and restaurants, on the assembly lines."

Mrs. Wolfgang argued that all overtime work should be optional for both men and women, as it is now under many union contracts.

But until it is, she said, hours-limitation laws for women "provide them with a shield against obligatory overtime to permit them to carry on their life at home as wives and mothers."

Mrs. Wolfgang cited case after case of women in Michigan who were forced against their will to work more than 60 hours a week during the three-month period in 1967-68 when that state's maximum hours law was declared invalid. She named names of specific companies where she said this had occurred including, in particular, the Chrysler Corporation.

President Nixon's advisory council on the status of women endorsed the equal rights amendment, Mrs. Wolfgang noted. She said the reason was that, unlike similar committees of the Johnson and Kennedy Administration, "it had no representation of working women but was made up of business and professional women. The Kennedy and Johnson groups opposed the amendment.

The members of Mr. Nixon's group, she said, "are totally unaware of what real working women and housewives of America really want."

"The business and professional women of America don't bake the bread for America, nor package the meat, nor clean the hotel rooms, nor wipe the noses, nor change the diapers, nor man the production lines, nor ring up your retail purchases," she said.

Prof. Paul A. Freund of the Harvard University Law School the day's other witness, argued that adoption of the amendment would bring about vast changes that Congress had not adequately considered.

For example, he noted that most of the amendment's advocates say that it would make women subject to being drafted if men were being drafted.

I digress to say so far as it lies within its powers the United States has done exactly that today, but I hope when Senators return to their home States they will tell the fathers and mothers of the daughters of America how they voted on that issue.

I continue to read from the article which appeared in the New York Times:

If Congress really wants to draft women, he said, it can pass a law that would do so.

The reference there is to Professor Freund.

I digress to say it does not need any congressional amendment to give it that power, but this constitutional amendment takes power away from Congress in respect of the recruitment of personnel of the Armed Forces. It places Congress in a straitjacket, where it cannot legislate on this subject unless it places both men and women draftees under exactly the same conditions and converts men and women both into combat soldiers.

I continue to read from the statement:

But a policy change of such importance "is customarily the subject of full and informed hearings before appropriate committees and is voted on after well-focused debate.

"It may or may not be a desirable change to make, but in other circumstances it would surely be thought irresponsible to impose such a reform almost without attention, as a half-hidden implication of a motto."

Professor Freund also expressed the view that adoption of the amendment could wipe out laws requiring men to support their wives and children.

"Can it be said that the favorable treatment everywhere accorded to wives in respect to support is a manifestation of male oppression or chauvinism or domination?" he asked.

He criticized the women's groups that have focused their energies on adoption of the equal rights amendment instead of bringing court cases under the 14th Amendment that, in his opinion, would have resulted in the invalidation of many discriminatory laws.

Old Supreme Court cases denying women the protections of the 14th Amendment are "museum pieces" and would not be decided that way today, he said.

He also challenged Congress to enact, as it could by simple majority vote, laws against discrimination against women in public educational institutions, in public accommodations and other fields.

Professor Freund had other things to say on this subject. He testified before the Committee on the Judiciary in September 1970, and he testified again before the Judiciary Committee of the House in February of this year, as I recall. He made some very wise observations concerning the effects of the so-called equal rights upon the social structure of this country and concerning the chaos which it will provoke in constitutional and legal fields.

I ask unanimous consent that the statement of Prof. Paul J. Freund, made in September 1970, before the Committee on the Judiciary and certain comments which I made thereon, at that time, be printed in the RECORD.

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

[From the CONGRESSIONAL RECORD, Proceedings and Debates of the 91st Congress, Second Session, Washington, Thursday, Sept. 10, 1970]

STATEMENT OF PROF. PAUL J. FREUND OF THE HARVARD LAW SCHOOL BEFORE THE SENATE JUDICIARY COMMITTEE IN OPPOSITION TO SENATE JOINT RESOLUTION 61, THE EQUAL RIGHTS FOR WOMEN AMENDMENT

Mr. ERVIN. Mr. President, there is no doubt that the equal rights for women amendment has been subjected to very little analysis. In fact, the House of Representatives did not hold any hearings on this proposal, and the Senate hearings made no attempt to investigate the effects of such a constitutional amendment on the myriad State and Federal laws which make distinctions between men and women. It is a very real testament to the lack of consideration given to this matter that the definitive critical legal statement was written in 1945—25 years ago—by Prof. Freund of the Harvard Law School. Not only was Professor Freund not asked to bring his statement up to date by the House or the Senate subcommittee considering this prob-

lem, but very few, if any, legal scholars were asked to comment on the matter by anyone.

In the hearings called this month by the Senate Judiciary Committee to look into the problems posed by this amendment, Professor Freund has been finally asked to bring his views on this matter up to date. I recommend Professor Freund's statement to all Senators. He is an outstanding constitutional scholar, and he has explored in detail for the committee the chaotic legal conditions which will exist if this amendment passes. He realizes the dangers of dealing with the complex legal relationships between men and women by the simplistic approach taken by the House-passed amendment. On this point Professor Freund said:

"The truth is that a motto of four words, however noble in purpose, is hopelessly inept to resolve all the diverse issues of classification by sex in the law. It is as if the Constitution declared "all power to the people," and left it at that."

The equal rights for women amendment is receiving in the Senate Judiciary Committee the first thorough analysis it has received in 25 years. It is no compliment to the concept of equal rights for women that the advocates of this amendment are demanding that it should pass without adequate consideration. If any Senator doubts the seriousness of the changes which the equal rights for women amendment would bring about and the need for adequate consideration, I suggest he read Professor Freund's statement to the Senate Judiciary Committee on September 9, 1970.

Mr. President, I ask unanimous consent that Professor Freund's statement be printed in the RECORD.

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

STATEMENT OF PAUL A. FREUND

I appreciate your invitation to appear and present my views on the Equal Rights Amendment. I am a professor at the Harvard Law School, specializing in Constitutional Law, and I am here in a purely personal capacity, having prepared a statement some twenty years ago in opposition to the Amendment when it was previously before the Senate.

I am anxious that my position not be misunderstood. I am in wholehearted sympathy with the efforts to remove from the statute books those vestigal laws that work an injustice to women, that are exploitative or oppressive discriminations on account of sex. Too many of such laws continue to disfigure our legal codes, I submit, however, that not every legal differentiation between boys and girls, men and women, husbands and wives, is of this obnoxious character, and that to compress all these relationships into one tight little formula is to invite confusion, anomaly, and dismay.

Let me illustrate. Consider two types of law that differentiate on the basis of sex. One prescribes heavier criminal penalties for men than for women who commit identical offenses. This can only be explained on some moralistic basis that has no rational relation to the purposes of the criminal law. The other type prescribes, or officially approves, different premium rates for life insurance for men and women; based on actuarial statistics of life expectancy, the rates for women are lower. Here is a legal recognition of the facts of life, which happen indeed to favor the position of women. Is there any reason to visit the same condemnation of these two kinds of laws, as if they were equally repugnant to our sense of justice, and to do so by a change in our fundamental law that would leave no freedom of action to any state? Anyone who sees an important difference in these two cases cannot in good conscience, I submit, support the proposed amendment.

It will not do to answer that the courts will make sensible distinctions and will not give a literal meaning to "equal rights under law." If only that were the purport of the Amendment it would be redundant of the equal protection guarantee of the Fourteenth Amendment. The Supreme Court has not held, as is sometimes loosely stated, that women are not "persons" within the meaning of that Amendment. Rather the Court has found in the past that certain laws do not discriminate unfairly against women. Very probably the Court would be less tolerant today in applying the guarantee of equal protection of differences based on sex, as it is less tolerant of unequal treatment in other fields. But it is precisely to avoid the necessity of submitting such questions to the courts, to strip the courts of any latitude of application, that the proponents of the Equal Rights Amendment urge the necessity of its adoption. Their model is not the generally flexible concept of equal protection, but the concept as it has now come to be applied to provisions of law based on race. The law, it is argued, must be sex-blind no less than color-blind.

Let us see whether the analogy to race is a satisfying one. It is now a constitutional principle that public schools and universities may not maintain a dual system for white and black students, respectively. Does it follow that men and women must be admitted without differentiation to West Point and Annapolis—not in separate but equal academies but in the same classes and in the same school activities? If this is indeed the will of Congress, it can be carried out by simple majority vote, on an experimental basis, without waiting for a binding mandate from three fourths of the states. If it is not the will of Congress, I assume the proposed Amendment will not be approved by this body. The strict model of racial equality, moreover, would require that there be no segregation of the sexes in prisons, reform schools, public rest rooms, and other public facilities. Indeed, if the law must be as undiscriminating concerning sex as it is toward race, it would follow that laws outlawing wedlock between members of the same sex would be as invalid as laws forbidding miscegenation. Whether the proponents of the Amendment shrink from these implications is not clear. It has been stated that equal treatment would not be required if it ran counter to prevailing standards in the present state of our culture. This is an escape valve not found in the Amendment itself and one of very uncertain dimensions. Some may believe that to permit women to work as coal miners offends prevailing mores; but evidently such an exemption from the Amendment's coverage would be strongly repudiated by the proponents.

Subjection of women to compulsory military service, along with men, raises a similar question. Again, the proponents appear to insist that the drafting of women as well as men for suitable military service would in fact be required under the Amendment. They assume, probably correctly, that equal "rights" would include obligations of service; and under the Amendment men could claim that the right" of exemption from the draft must be applicable without regard to sex. If this major innovation in the draft is truly the will of Congress, it can be achieved, like the opening up of West Point and Annapolis, by simple legislation, and at once, without waiting to be bound by the action of three fourths of the states. Draft policy is, after all, the responsibility of the national government. A change of policy of this magnitude in framing a draft law is customarily the subject of full and informed hearings before appropriate committees and is voted on after well-focused debate. It may or may not be a desirable change to make, but in other circumstances it would surely be thought irresponsible to impose such a reform almost without attention, as a half hidden implication of a motto which, in addition, would be frozen unalterably in the Constitution.

Consider next the field of domestic relations with its complex relationships of marital duties and parental responsibilities. Every State makes a husband liable for the support of his wife, without regard to the ability of the wife to support herself. The obligation of the wife to support her husband is obviously not identical to this; if it were, each would be duty bound to support the other. Instead, the wife's duty varies from State to State. In some jurisdictions there is no obligation on the wife, even if the husband is unable to support himself. In others, the wife does have a duty of support in such a case. In 1968 a recommendation on the subject was made by a Task Force on Family Law and Policy of the Citizen's Advisory Council on the Status of Women, a group that supports the Amendment. The recommendation was a progressive and equitable one: A wife should be responsible for the support for her husband if he is unable to support himself and she is able to furnish such support." (Report, p. 9). So far, so good. But under the mandate of the Equal Rights Amendment, what would be the effect on the rule fixing the husband's duty? Some members of the Task Force, but only some, took a position consistent with the principle of the Amendment:

"Some of the task force members believed that a husband should only be liable for the support of a wife who is unable to support herself due to physical handicap, acute stage of family responsibility or unemployability on other grounds." (*Ibid.*) This solution would be dictated by the Equal Rights Amendment but would be contrary to the law of every State. Can it be said that the favorable treatment everywhere accorded to wives in respect of support is a manifestation of male oppression or chauvinism or domination? Can it be expected that all the States will make an about-face on the law of support within a year of the adoption of the Amendment; and if they do not, what will be the reaction of housewives to the Equal Rights Amendment when husbands procure judicial decisions in its name relieving them of the duty of support?

The truth is that a motto of four words, however noble in purpose, is hopelessly inapt to resolve all the diverse issues of classification by sex in the law. It is as if the Constitution declared "All power to the people," and left it at that. A hundred years ago the framers of the Fourteenth Amendment resorted to a high-sounding but unexamined motto when they provided that no State might abridge the "privileges and immunities of citizens of the United States." What those privileges are still is a subject of litigation and debate. We wonder how a phrase so unthought-through could have found its way into the Constitution as a mandate for legislatures and courts. We can at least profit from that experience. We can at least try to think things, not merely words, when amending our fundamental law. Of course no legal provision can anticipate unforeseeable or out-of-the-way problems that may arise. But when a proposal leaves the mind so unsatisfied regarding its effect on ordinary, obvious, recurring relationships, a more specific and concrete approach is clearly called for.

I would not want to leave the subject on a purely negative note. My concern, as I have said, is with the method proposed, which is too simplistic for the living issues at stake. It remains, then, to suggest alternative ap-

proaches. A great deal can be done through the regular legislative process in Congress.

Concrete guidelines are set forth in an April 1970 Report of the President's Task Force on Women's Rights and Responsibilities (not the same task force cited earlier). After recommending support of the proposed Amendment, the Report urges that Title VII of the Civil Rights Act of 1964 should be amended to empower the EEOC to enforce the law, and to extend coverage to State and local governments and to teachers; that Titles IV and IX of the Civil Rights Act be amended to authorize the Attorney General to assist in cases involving discrimination against girls and women in access to public education, and to require the Office of Education to make a survey on that subject; that Title II of the Civil Rights Act should be amended to prohibit discrimination because of sex in public accommodations; that the jurisdiction of the Civil Rights Commission be extended to include denial of civil rights because of sex; that the Fair Labor Standards Act be amended to extend coverage of its equal pay provisions to executive, administrative, and professional employees; that various amendments be made to the Social Security Act; and that liberalized provision be made for child care facilities. It is an extensive, important, and thoughtful set of proposals. If a two-thirds majority can be found for the abstraction of the Equal Rights Amendment, it would be puzzling to know why a simple majority could not even more readily be found to approve this concrete program.

In addition, Congress would give a vigorous and valuable lead by enacting model laws for the District of Columbia in the fields of labor legislation and domestic relations.

Moreover, a few significant decisions of the Supreme Court in well-chosen cases under the Fourteenth Amendment would have a highly salutary effect. And decisions under Title VII of the Civil Rights Act will clarify the role of state laws regulating employment with respect to the concept of bona fide occupational qualifications.

Finally—and this may seem to some to be a radical suggestion—Congress can exercise its enforcement power under the Fourteenth Amendment to identify and displace state laws that in its judgment work an unreasonable discrimination based on sex. This would be done on the analogy of the 18-year old voting legislation.

In this connection let me point out a serious deficiency in the proposed Amendment. Its enforcement clause gives legislative authority to Congress and the States "within their respective jurisdictions." This is a more restrictive authorization to Congress than is to be found in any other Amendment, including the Fourteenth. If the new Amendment is deemed to supersede the Fourteenth concerning equal rights with respect to sex, Congress will be left with less power than it now possesses to make the guarantee effective. This is the final anomaly.

A NOTE ON RULES OF CONSTRUCTION

What would be the effect of the amendment on various laws that are now applicable only to women, or that differentiate between men and women in their provisions? What would be the effect, for example, on state laws setting minimum wages for women only, or the law of dower where it is not equally applicable to men?

The question divides itself into two parts: what is the mandate addressed to legislatures, and what is the mandate addressed to courts?

So far as legislatures are concerned, I assume (perhaps mistakenly) that equality could be achieved by moving in either of two directions; that is, a special minimum wage law or industrial seating law for women could be repealed, leaving no minimum wage or seating law in effect, or it could be extended to men either in its present form or with new standards applicable across the board. If the legislature repeals such laws because of the increased burden on employers to extend them to men as well, equality of rights will have been achieved, but one can only ask, "What price equality?".

Suppose, however, that within the one-year period between adoption of the Amendment and its effective date a legislature does not act to equalize certain differentials based on sex, or acts in a way thought to be still incompatible with the Amendment. The problem then becomes the subject of litigation. Are the courts given the same latitude of direction as I have assumed the legislatures possess to accommodate the law to the Amendment?

The legislative history, such as it is, suggests that certain guidelines should control the action of the courts. Reference has frequently been made, in this connection, to the following passage in the memorandum of the Citizens Advisory Council on the Status of Women, March 1970:

"Where the law confers a benefit, privilege or obligation of citizenship, such would be extended to the other sex, i.e., the effect of the amendment would be to strike the words of sex identification. Thus, such laws would not be rendered unconstitutional but would be extended to apply to both sexes by operation of the amendment. . . .

"Where the law restricts or denies opportunities of women or men, as the case may be, the effect of the equal rights amendment would be to render such laws unconstitutional."

This guideline is far from clear. As was pointed out by Congresswoman Mink in the brief discussion in the House (Aug. 10, 1970, Cong. Rec. H. 7976–77). "Under this reasoning, however, both results could occur. For example, the minimum wage law for women only is a special benefit and under the first rationale would be extended to both sexes. But it is also a law which is discriminatory against men [and restrictive, one could add, of women's liberty of contract] and thus could be held unconstitutional."

Mrs. Mink would have liked to insert into the Amendment a clarifying proviso, as follows:

Provided, that any State or Federal law which confers rights, benefits and privileges on one sex only shall be construed to apply to both sexes equally."

However, on the assurance of Congresswoman Griffiths that the proviso was implicit in the Amendment and that Mrs. Mink's concerns were unfounded, she did not press her point and voted for the Amendment as it stands. (*Ibid*).

But even the proviso as offered by Mrs. Mink would hardly have been adequate as a guide. Consider the case of different ages of capacity to contract or marry; 18 for females, 20 for males, let us assume. From one point of view, only young women are given the benefit or privilege of contracting between 18 and 20, therefore the age should be lowered uniformly to 18. From another point of view, only young men are given the privilege or benefit of disaffirming an obligation between 18 and 20, therefore the age should be raised uniformly to 20. Or consider the problems of rights and duties *inter se,* as in the case of dower, in a state which grants that interest only to wives, or which grants it in larger measure than curtesy can be claimed by husbands. From one point of view, dower is a benefit granted to the woman and so should extend in corresponding measure to the man. From another point of view, the benefit is freedom during marriage of the wife's property from curtesy, so that it is the absence of such a marital property right to one another's property that should be the objective of the decision. How property held by a spouse is to be valued in this uncertainty, and how titles are to be secure when such property is conveyed, are questions that continue to give one pause, even after trying to apply the extrinsic guidelines. Surely the result cannot turn on whether a wife is seeking to convey property free of curtesy, or a widower is claiming the equivalent of dower on his wife's death.

Normally a legislature would focus on such problems of equalization as it revised its law of property or custody or marriage. But when 50 states are put under a new mandate of "equality" with respect to all aspects of law that have been regard to sex differentiation and where that mandate is self-executing through the courts, wholesale confusion is likely to occur. It should be remembered once more that the intervening hand of Congress, where states are laggard or confused, is precluded, except where Congress would independently have power, under the "respective jurisdictions" clause of the Amendment's enforcing provision.

Mr. ERVIN. Mr. President, I also ask unanimous consent that the statement which Professor Freund made before the House Judiciary Committee in February 1972 and certain comments that I made thereon be printed in the RECORD.

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

[From the CONGRESSIONAL RECORD, Feb. 9, 1972]

HARVARD LAW PROFESSOR OPPOSES EQUAL RIGHTS AMENDMENT

Mr. ERVIN. Mr. President, in the March 1971 issue of the Harvard Civil Rights-Civil Liberties Law Review. Prof. Paul A. Freund of the Harvard Law School has written a strong article against the equal-rights-for-women amendment.

Professor Ferund, one of the most outstanding legal scholars in this country, concludes that the ERA, or unisex amendment, will result in the destruction of any law that differentiates between men and women. As Professor Freund puts it:

"And so women must be admitted to West Point on a parity with men; women must be conscripted for military service equally with men (though classification on an individual basis for assignment to duties would be valid, it is asserted): girls must be eligible for the same athletic teams as boys in the public schools and state universities; Boston Boys' Latin School and Girls' Latin School must merge (not simply be brought into parity); and life insurance commissioners may not continue to approve lower life insurance premiums for women (based on greater life expectancy)—all by command of the Federal Constitution."

Professor Freund takes a special look at the laws relating to domestic relations which the ERA would destroy, and I hope that every Senator will have an opportunity to read this section to determine the effect of destroying the legal obligation, existent in every State, for the husband to support his family.

Prof. Jonathan H. Pincus of the Yale University School of Medicine has rightly termed this destructive element of the ERA, "the Tonkin Gulf resolution of the American social structure."

Mr. President, I highly recommend the article by Professor Freund in the Harvard Civil Rights-Civil Liberties Law Review to everyone interested in a brilliant expose of the equal rights for women amendment. I ask unanimous consent that it be printed in the RECORD.

THE EQUAL RIGHTS AMENDMENT IS NOT THE WAY

(By Paul A. Freund) *

My interest in the Equal Rights Amendment goes back twenty-five years, when I was encouraged to draft a statement in opposition on behalf of twenty lawyers and law professors, including Dean Pound of Harvard.[1] Last year I learned that this statement was being circulated anew by the AFL–CIO, and it became necessary to review my position on the subject.

The issue has always been over choice of means, not over ends. The objective is to nullify those vestigial laws that work an injustice to women, that are exploitative or impose oppressive discriminations on account of sex. Although such laws have been progressively superseded or held to be violative of equal protection,[2] some of these laws still disfigure our legal codes. Beyond this, the Women's Rights Movement seeks to achieve equal opportunity and equal treatment for women in business, professional, domestic, and political relationships, but unless equality is denied by a public agency or because of a law the Equal Rights Amendment by its terms has no application. If we want to see more women in law firms, in the medical profession, in the Cabinet—and I, for one, do—we must turn elsewhere than to the proposed amendment. The point is not the smug argument that we must change hearts and minds and attitudes (though that too is involved) rather than look to law; the point is that within the realm of law we have to compare the effects and effectiveness of a constitutional amendment on the one hand and the mandate of congressional legislation and judicial decisions on the other.

The proposed amendment attempts to impose a single standard of sameness on the position of the sexes in all the multifarious roles regulated by law—martial support, parental obligations, social security, industrial employment, activities in public schools, and military service—to mention the most prominent. It is necessary to try to analyze all these various applications of the single-standard formula in order to discern whether anomalies, uncertainties, and injustices would result. Unfortunately, we have no definitive guide in such an exploration, for neither in the House nor in the Senate was there a committee report on the amendment, which might have focused attention on concrete issues rather than on a generalized slogan—"equal rights under law"—which is intended to supplant "equal protection of the laws." The alternative legal course is to achieve changes in the relative position of women through paramount federal standards or to overcome invidious classifications on the ground that they are presently unconstitutional. The choice resembles that in medicine between a single broad-spectrum drug with uncertain and unwanted side-effects and a selection of specific pills for specific ills.

In comparing the problem of choice twenty-five years ago and today, I concluded that so far from the case for amendment being strengthened, the choice of the alternative course was even more strongly indicated. The reason is that during the intervening years both the scope of congressional power and the promise of judicial redress have been made clearer, while the dangers implicit in the amendment remain as before. Congressional power under the commerce clause, as the civil-rights legislation shows, is adequate to deal with discrimination (whether private or governmental) based on sex, as on race. This authority has been utilized to some extent in relation to sex discrimination in employment practices [3] but not to such discrimination in places of public accommodation. Discrimination in matters of family law could be reached under Congress' power to enforce the equal-protection guarantee, as set forth in *Katzenbach v. Morgan*.[4]

Recently, to be sure, a majority of the Court refused to extend that decision to the case of the claims of 18-year-olds to share in the suffrage; but the refusal hinged on a reluctance to regard the minimum voting age for elections as a subject coming within the guarantee of equal protection.[5] Even without benefit of congressional action, the guarantee has been markedly enlarged in recent years; it has served to invalidate legislative classifications based on such factors as poverty, illegitimacy, duration of residence.[6] Surely nineteenth-century decisions holding, for example, that women could be denied admission to the bar [7] are museum pieces and should not figure in any present discussion of equal rights.

The paucity of contemporary Supreme Court decisions can be ascribed partly to the failure of women's groups to mount a series of selected test cases challenging forms of discrimination, and in part to the fact that some discriminatory laws have been held invalid by lower courts, without further appeal.[8] One Supreme Court decision, however, is a target of indignation by proponents of the amendment: *Hoyt v. Florida*.[9] The Court held by a divided vote that a state law might relieve women of jury duty unless they signified their willingness to serve, while requiring men to present specific reasons for excuses. Experience had shown that a much higher percentage of women than of men had in fact secured excusal on an individual basis, because of household duties, and the law was tailored to reflect this experience in a differentiated procedure based on a differentiated presumption of fact. As the Justices were divided, so it seems to me, can reasonable persons of good will disagree among themselves on the decision. But to regard the decision as an invidious discrimination or a degrading affront to women that calls for redress by a constitutional amendment is surely far-fetched and obsessively sensitive. The classification more nearly resembled a factful generalization based on age or height than on race or color.

So far I have set out reasons why the amendment is not necessary or appropriate. Before leaving this point, let me add that even if the amendment were adopted, legislation on the state or federal level would be necessary to carry it out in its myriad applications. Four words will not in themselves remake the laws of age of consent, marital property rights, marital and parental legal duties, and protective factory legislation. The energies that have been spent for forty years in an effort to secure the submission of the amendment by Congress to the states would have to be followed, even if ultimately successful, by efforts to revise the laws in a satisfactory way. It is hard to believe that this preliminary struggle to obtain the support of two-thirds of Congress and three-fourths of the states is other than a diversion of energy from the essential task of revising the laws themselves.

In some fields a national mandate to the states is a useful, even necessary, prelude because there is a bloc of recalcitrant states or because individual states fear a loss of competitive advantage in raising their standards. The latter was the case, for example, with unemployment compensation, which lagged in the states until federal tax credit legislation took away the supposed advantage of holding out.[10] So far as women's rights are concerned, a similar situation conceivably might exist with respect to a disadvantaged position in industry; but there is a twofold answer to this supposition. So far as merely private discrimination is concerned, the amendment has no application, and all discrimination, private or governmental, is subject to the paramount power of Congress under the commerce clause. In non-commercial fields, such as marital property or parental duties, there is no need to go to the states for a preliminary mandate to change their laws. If three-fourths of the states are prepared to ratify the amendment, it is hard to see why they must first thus admonish themselves to do justice before they are prepared in fact to do justice. Although forty years of frustration ought to have carried a lesson, no doubt it seems easier to place a resounding and all-encompassing phrase in the Constitution than to identify specific wrongs and draft model laws to correct them. Yet it is the latter that sooner or later will have to be done, whatever the fate of the amendment—and I suggest that it be sooner.

Still it may be suggested, the amendment would serve importantly as a symbol—a symbol that the nation has made a commitment to justice for women under law. One gets the impression that much of the drive for the amendment owes its force to this psychological wellspring. The value of a symbol, however, lies precisely in the fact that it is not to be taken literally, that it is not meant to be analysed closely for its exact implications. A concurrent resolution of Congress, expressing the general sentiment of that body, would be an appropriate vehicle for promulgating a symbol. When, however, we are presented with a proposed amendment to our fundamental law, binding on federal and state governments, on judges, legislatures, and executives, we are entitled to inquire more circumspectly into the operational meaning and effects of the symbol. Lawyers, in particular, have an obligation to ask these questions and to weigh the answers that are given. For if the amendment is not only a needless misdirection of effort in the quest for justice, but one which would produce anomalies, confusion, and injustices, no symbolic value could justify its adoption. We turn, then, to these issues of meaning and effect.

A mandate that equal rights under law shall not be denied or abridged by the United States or any state on account of sex can have either of two conceivable meanings. It can mean that any classification based on sex must be justified by some good (or very good, or compelling) reason, or it can mean that no such classification can pass muster. To this question there is no authoritative answer to be found in the congressional history of the proposed amendment, but the literature of its main sponsors insists on an absolute meaning. This interpretation has been reinforced by the recent experience with the amendment in the Senate. After the original version was amended to death, Senator Bayh and other proponents offered a revised version, using the language "equal protection of the laws shall not be denied or abridged . . . on account of sex." This formulation, adopting the language of the fourteenth amendment but explicitly stressing its application to classifications based on sex, would have been accepted by a number of opponents of the original version. (I would not feel impelled to oppose the revised version, though doubting its necessity.) But it was the most active groups behind the amendment that refused to accept the substitute. They protested that courts or legislatures might find compelling reasons for certain classifications, and this result was unacceptable.[11] I should have thought that if there are compelling reasons and if the amendment would allow them to prevail, that outcome would be cause for satisfaction, not intransigent complaint.

A doctrinaire equality, then, is apparently the theme of the amendment. And so women with men; women must be conscripted for military service equally with men (though classification on an individual basis for as-

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Footnotes at end of article.

signment to duties would be valid, it is asserted),[12] girls must be eligible for the same athletic teams as boys in the public schools and state universities; Boston Boys' Latin School and Girls' Latin School must merge (not simply be brought into parity); and life insurance commissioners may not continue to approve lower life insurance preminums for women (based on greater life expectancy)[13]—all by command of the Federal Constitution.

Perhaps the country ought to consider conscripting women equally with men. My point is not that we must maintain the status quo; it is that a change so far-reaching and inflexible ought surely not be brought about as the half-hidden implication of a constitutional motto. Changes of far less import in the draft law have been the subject of full-scale hearings, committee reports, and debate in and out of Congress. Can we assume that every member of Congress who is prepared to vote for the amendment is equally prepared to explain and justify its effect on military service and to support that result before his constituents? A similar question has to be raised about each of the other foregoing illustrative consequences of the amendment. The irreverent thought obtrudes itself that either not every member of Congress has been adequately briefed on the amendment's implications or not every member takes seriously the possibility of its ratification. This irreverence is reinforced when it is remembered that such subjects as selective service or admission to West Point are wholly in the control of Congress, and there is no reason to wait for the mandate of three-fourths of the states if Congress really regards sex differentiation in those institutions as unacceptable and is bent on ending it. Indeed, the change could be brought about by simple majority vote, not the two-thirds required to submit a constitutional amendment.

Special scrutiny should be given to the field of domestic relations, with its complex relationships of marital duties and parental responsibilities. Every state makes a husband liable for the support of his wife, without regard to the ability of the wife to support herself. The obligation of the wife to support her husband is obviously not identical to this; if it were, each would be duty bound to support the other. Instead, the wife's duty varies from state to state. In some jurisdictions there is no obligation on the wife, even if the husband is unable to support himself. In others, the wife does have a duty of support in such a case.

In 1968 a recommendation on the subject was made by a Task Force on Family Law and Policy of the Citizens' Advisory Council on the Status of Women, a group that supports the amendment. The recommendation was a progressive and equitable one: "A wife should be responsible for the support of her husband if he is unable to support himself and she is able to furnish such support."[14] So far, so good. But what would be the effect on the rule fixing the husband's duty? Some members of the Task Force, but only some, took a position of reciprocity consistent with the principle of the amendment: "Some of the task force members believed that a husband should only be liable for the support of a wife who is unable to support herself due to physical handicap, acute stage of family responsibility or unemployability on other grounds."[15] This solution, dictated by the Equal Rights Amendment, would be contrary to the law of every state. Moreover, the support owed solely to "a wife who is unable to support herself" might be further eroded by the establishment of child-care centers. Where such centers are created, presumably a wife with small children would no longer be "unable" to support herself through employment, and so under the constitutional rule of reciprocity would lose the right of support from her husband. Thus child-care centers could, by a reflexive effect on the mother's ability to work outside the home, constitute a threat rather than an opportunity. Of course the spouses would be free to enter into an agreement regarding support, but the law is necessarily concerned with rules and presumptions in the absence of agreement.

Is the favorable treatment now everywhere accorded to wives in respect of support a manifestation of male oppression or chauvinism or domination? Can it be expected that all the states will make an about-face on the law of support within a year of the adoption of the amendment; and if they do not, what will be the reaction of wives to the Equal Rights Amendment when husbands procure judicial decisions in its name relieving them of the duty to support because an equal duty is not imposed on their wives?

It is sometimes said that a rigid requirement of equality is no less proper for the sexes than for the races, and no less workable. But the moral dimensions of the concept of equality are clearly not the same in the two cases. To hold separate Olympic competitions for whites and blacks would be deeply repugnant to our sensibilities. Do we—should we—feel the same repugnance, that same sense of degradation, at the separate competitions for men and women? A school system offering a triple option based on race—all-white, all-black, and mixed schools—would elevate freedom of choice over equal protection in an impermissible way. Are we prepared to pass that judgment as readily on a school system that offers a choice of boys', girls', and coeducational schools? A family that prefers to send its daughter to a girls' school or college and its son to a boys' school or college is not thereby committing an invidious discrimination; their judgment of relative educational advantages may be wise or unwise, but it is not so far beyond the bounds of legitimate discretion, experimentation, and good will as to call for a uniform constitutional mandate closing off that area of choice. One of the prime targets of the equal-rights movement has been the color-segregated public rest room. Whether segregation by sex would meet the same condemnation is at least a fair question to test the legal assimilation of racism and "sexism."

The answer proffered is that a counter-principle, a constitutional right of privacy, would be invoked at this point.[16] But this is only to restate the problem, which is whether there are not considerations other than identical treatment that ought to be taken into account in the various contexts of relations between the sexes. If privacy is one such consideration, though unexpressed in the amendment, when will it prevail and when will it not? Is privacy in fact the only unexpressed countervailing interest? Freedom of association is a constitutional right enjoying recognition even longer and firmer than privacy. It has been invoked without avail, as has the interest in privacy, to blunt the force of equal protection in the field of racial separation. Is it to have greater recognition (as in the area of public education) where relations between the sexes are concerned? Moreover, interests more social, less individual, than privacy or association are actually involved. If a public school conducts separate physical education classes for boys and girls, or a prison maintains separate cells for men and women, would the validity of the separation depend on a claim of privacy? If the pupils or prisoners waived any interest in privacy and wished to amalgamate the classes or the cells, would the school or the prison be required to conform? Or could the law respect a wider community sentiment that separateness was fitter and not invidious?

Constitutional amendments, like other laws, cannot always anticipate all the questions that may arise under them. Remote and esoteric problems may have to be faced in due course. But when basic, commonplace recurring questions are raised and left unanswered by text or legislative history, one can only infer a want of candor or of comprehension.

I would not wish to leave the subject on a purely negative note. My concern, as I have said, is with the method proposed, which is too simplistic for the living issues at stake. It remains, then, to suggest alternative approaches. A great deal can be done through the regular legislative process in Congress. Concrete guidelines are set forth in an April 1970 Report of the President's Task Force on Women's Rights and Responsibilities. After recommending support of the proposed amendment, the Reports urges that:

Title VII of the Civil Rights Act of 1964 be amended to empower the EEOC to enforce the law, and to extend coverage to state and local governments and to teachers;

Titles IV and IX of the Civil Rights Act be amended to authorize the Attorney General to assist in cases involving discrimination against girls and women in access to public education, and to require the Office of Education to make a survey on that subject;

Title II of the Civil Rights Act be amended to prohibit discrimination because of sex in public accommodations;

the jurisdiction of the Civil Rights Commission be extended to include denial of civil rights because of sex;

The Fair Labor Standards Act be amended to extend coverage of its equal pay provisions to executive, administrative, and professional employees;

liberalized provisions be made for child-care facilities.[17]

It is an extensive, important, and thoughtful set of proposals. If a two-thirds majority can be found for the abstraction of the Equal Rights Amendment, it would be puzzling to know why a simple majority could not even more readily be found to approve this concrete program.

In addition, Congress would give a vigorous and valuable lead by enacting model laws for the District of Columbia in the fields of labor legislation and domestic relations.

Moreover, a few significant decisions of the Supreme Court in well-chosen cases under the fourteenth amendment would have a highly salutary effect. And decisions under Title VII of the Civil Rights Act will clarify the role of state laws regulating employment in light of the statutory concept of bona fide occupational qualifications.[18]

Finally, Congress can exercise its enforcement power under the fourteenth amendment to identify and displace state laws that in its judgment work an unreasonable discrimination based on sex. In this connection let me point out a serious deficiency in the proposed amendment. Its enforcement clause gives legislative authority to Congress and the states "within their respective jurisdictions." This is a more restrictive authorization to Congress than is to be found in any other amendment, including the fourteenth. If the new amendment is deemed to supersede the fourteenth concerning equal rights with respect to sex, Congress will be left with less power than it now possesses to make the guarantee effective. This is the final anomaly.

The time has come for action, for meaningful action, for action based on a clear idea of just what it is that we are trying to correct and to bring about by law. For more than forty years there has been pursuit of the *ignis fatuus* of a constitutional amendment. This course has been opposed by individuals and groups whose commitment to civil rights and women's rights is not in question: groups that include the National Council of Negro Women, the National Council of Catholic Women, the National Council of Jewish Women, the American Association of Uni-

versity Women, and the Commission on the Status of Women, appointed by President Kennedy and chaired by Eleanor Roosevelt.[19] The real issue is not the legal status of women. The issue is the integrity and responsibility of the law-making process itself.

FOOTNOTES

*Carl M. Loeb University Professor, Harvard University.

[1] The statement appears in *Hearings on S.J. Res. 61 Before a Subcomm. of the Senate Comm. on the Judiciary*, 79th Cong., 1st Sess. 78–80 (1945). A list of signatories appears in the CONGRESSIONAL RECORD, vol. 116, pt. 22, p. 29670 (remarks of Sen. Ervin).

[2] *E.g.*, United States *ex rel.* Robinson v. York, 281 F. Supp. 8 (D. Conn.) (1968); Commonwealth v. Daniel, 430 Pa. 642, 243 A.2d 400 (1968). Both cases invalidated statutes providing for more severe penalties for women than for men convicted of certain offenses.

[3] Civil Rights Act of 1964, Title VII, 42 U.S.C. §§ 2000e—2000e–15 (1964).

[4] 384 U.S. 641 (1966).

[5] United States v. Arizona, 91 S. Ct. 260 (1970).

[6] *E.g.*, Shapiro v. Thompson, 394 U.S. 618 (1969) (residency); Levy v. Louisiana, 391 U.S. 68 (1968) (illegitimacy); Harper v. Virginia Bd. of Elections, 283 U.S. 663 (1966) (poverty); Douglas v. California, 372 U.S. 353 (1963) (poverty).

[7] *In re* Lockwood, 154 U.S. 116 (1894); Bradwell v. State, 83 U.S. (16 Wall.) 130 (1872).

[8] *See* note 2 *supra*. *See also* Kirstein v. Rector and Visitors of the Univ. of Va., 309 F. Supp. 184 (E.D. Va. of 1970) (requiring admission of women to all-male campus of the University of Virginia, where facilities open to women were not equal); White v. Crook, 251 F. Supp. 401 (M.D. Ala. 1966) (holding invalid the exclusion of women from jury service).

[9] 368 U.S. 57 (1961).

[10] *See* Steward Machine Co. v. Davis, 301 U.S. 548, 587–88 (1937).

[11] N.Y. Times, Nov. 12, 1970, at 19, col. 3. *But cf.* "Separation of the sexes by law would be forbidden under the amendment except in situations where the separation is shown to be necessary because of an overriding and compelling public interest and does not deny individual rights and liberties." Citizens' Advisory Council on the Status of Women. *A Memorandum on the Proposed Equal Rights Amendment to the Constitution*, CONGRESSIONAL RECORD, vol. 116, pt. 7, pp. 9684–9687. The dimension of this escape hatch are left unexplored. The only example given is the maintenance of separate restrooms, which other proponents have explained as preserving a right of privacy. *see* p. 240 *infra*.

[12] Citizens' Advisory Council on the Status of women, supra note 11, CONGRESSIONAL RECORD, vol. 116, pt. 7, pp. 9686–9687.

[13] *Cf.* Gruenwald v. Gardner, 390 F.2d 591 (2d Cir.), *cert denied*, 393 U.S. 982 (1968) (higher Social Security retirement benefits for women sustained). Presumably the amendment would require a different result.

[14] Citizens' Advisory Council on the Status of Women, Report of the Task Force on Family Law and Policy 9 (1968).

[15] *Id.*

[16] Emerson, *In Support of the Equal Rights Amendment*, 6 Harv. Civ. Rights-Civ. Lib. Rev. 225, 233 (1971).

[17] President's Task Force on Women's Rights and Responsibilities, A Matter of Simple Justice iv-v (1970).

[18] *See* Phillips v. Martin Marietta Corp., 39 U.S.L.W 4160, 4160–61 (U.S. Jan. 25, 1971) (Marshall, J. concurring).

[19] *See also* the valuable recent report recommending against adoption of the amendment, Committee on Federal Legislation, *Amending the Constitution to Prohibit State Discrimination Based on Sex*, 26 Record of N.Y.C.B.A. 77 (1971).

Mr. ERVIN. Mr. President, Laurel Burley, a professional librarian, a working woman, and a union member of California, has made a very interesting statement concerning the equal rights amendment which she, as a professional librarian and as a working mother and as a union member condemns, as being inimical to the welfare of women whose labor is not entirely intellectual.

Mr. President, I ask unanimous consent that a copy of her statement and certain comments which I made thereon be printed in full at this point in the body of the RECORD.

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

[From the CONGRESSIONAL RECORD, Feb. 8, 1972]

UNIVERSITY OF CALIFORNIA LIBRARIAN OPPOSES EQUAL RIGHTS AMENDMENT

Mr. ERVIN. Mr. President, the November, 1971, issue of the Library Journal contains a letter written by a librarian at the University of California Library, Laurel Burley, on some of the drastic consequences which will result from passage of the equal rights for women amendment, or unisex amendment, as Professor Kurland of the Chicago Law School has called it.

Although I do not subscribe to all her propositions, I do believe that her statement should make some very interesting reading for the middle and upper class women who are the most vocal supporters of the equal rights amendment and who have such small awareness of the benefits of protective labor legislation for women who are performing primarily physical tasks in their jobs.

She states that—

"The major danger in the proposed ERA lies in the fact that it would in one fell swoop invalidate all protective legislation enacted by the States to protect working women from exploitative employers. . . . Protective legislation not only sets maximum hours and minimum wage standards, but also mandates such provisions as rest areas, toilet facilities and elevators, adequate lighting and ventilation, rest and meal breaks (including the right to eat one's meal away from the immediate work area), adequate drinking water (important for women and children who are farmworkers), and protective garments and uniforms."

Maybe the upperclass women that are pushing so hard for the equal rights amendment say, "Fine, do away with all protective legislation," but I hope their dilettantish concern for lesser well-off women will not be lost on Members of the Senate.

Mr. President, for an interesting statement on one woman's view of the effects of the equal rights amendment on laboring women, I recommended Laurel Burley's letter. I ask unanimous consent that it be printed in the RECORD.

PROTECTIVE LAWS

(By Laurel Burley)

As a professional librarian, working woman, and union member, I disagree strongly with the statements concerning the Equal Rights Amendment (ERA) and protective legislation in the article "The Legal Status of Women" by Kay Cassell (p. 2600–03). The amendment as it stands is destructive to all working people, would in no way guarantee equal pay for equal work, and would not extend rights to women beyond those in the 5th and 14th amendments to the Constitution. The major danger in the proposed ERA lies in the fact that it would in one fell swoop invalidate all protective legislation enacted by the states to protect working women from exploitation employers, protective legislation which has been granted de facto to working men in some cases.

Protective legislation not only sets maximum hours and minmum wage standards, but also mandates such provisions as rest areas, toilet facilities and elevators, adequate lighting and ventilation, rest and meal breaks (including the right to eat one's meal away from the immediate work area), adequate drinking water (important for women and children who are farmworkers), and protective garments and uniforms. The only other protection women have in these areas is through union contracts (only 15 percent of working women are unionized), or through the Fair Labor Standards Act, which only covers about half the women connected in some way with interstate commerce. Protective legislation, in the few states where it remains, has sometimes been extended to men, the discriminatory aspects of not giving, for example, lunch breaks or toilet facilities to men in the same plant being obvious.

Some idea of what might be expected were the ERA to pass can already be seen in the use being made of Title VII of the Civil Rights Act. In late 1969 Fibreboard Corporation in Antioch, California began to force women to work 16 hours a day and to lift backbreaking weights. Pacific Telephone in 1970 began ignoring state protective legislation relating to minimum hours. In fall 1970 Oregon took away the right of women to have two ten-minute rest breaks in an eight-hour day; and another large California corporation, Crown Zellerbach, began denying meal breaks to both men and women working in the Antioch plant. In summer 1971 a U.S. Court of Appeals struck out the sections of the California Labor Code regulating maximum weight lifting and the eight-hour day, 48-hour week for women. All these actions were justified on the basis that Title VII and EEOC guidelines superseded state protective legislation. Such instances are mounting at an incredible rate. On the basis of Title VII, 17 states have either totally or substantially annulled or repealed protective legislation covering women. The ERA as it stands will add the finishing touch.

No one should be so naive as to assume that if the ERA passes and protective legislation is wiped out, working women not protected by union contract are somehow going to be granted decent working conditions, a living wage, and a minimum work week by benevolent employers. The National Right to work Committee has already stepped up it activity in several states. The ERA as it stands will put the lot of every working person, man, woman, and child back in the 19th Century. We have fought too hard and too long for what little legislation we have which betters our working conditions. The ERA should be amended to extend protective legislation to both men and women. Laws dealing with equal pay for equal work and equal employment opportunity should be strengthened and enforced. Women should continue to fight for full equality under the law, not forgetting that the struggle is to better our lot, not to worsen it.

Mr. ERVIN. Mr. President, the AFL–CIO's executive council has studied the equal rights amendment and has condemned it as repugnant to the best interests and the welfare of the working women of America.

I ask unanimous consent that a copy of the report of the executive council of the AFL–CIO on this point and certain comments I made thereon be printed at this point in the body of the RECORD.

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

[From the CONGRESSIONAL RECORD, Feb. 16, 1972]

AFL–CIO OPPOSES EQUAL RIGHTS FOR WOMEN AMENDMENT

Mr. ERVIN. Mr. President, the largest labor organization in the country, the AFL–CIO, has recommended that Congress not pass the equal rights amendment. In its resolution No. 122, the organization stated:

"We continue opposition to the so-called equal rights amendment as an unnecessary addition to the Constitution, ultimately more harmful than helpful to the legal rights of women."

Prior to the adoption of the resolution, the executive council of the AFL–CIO, in a report to its convention, said:

"We have opposed the equal rights amendment to the Constitution because of its potentially destructive impact on State labor legislation for women workers."

Before the Senate votes on this important measure, I hope each Senator will ponder these words of the AFL–CIO's report. It says:

"The proposed equal rights amendment would render all protective labor laws for women workers unconstitutional, as well as any other laws treating the sexes differently. Such laws, for example, include marriage laws which place primary responsibility for family support on husbands and fathers."

So, Mr. President, all laws which treat men and women differently, no matter how reasonable, will be unconstitutional. I hope this is understood, because it is the essence of my opposition to the amendment.

The AFL–CIO realized the significant impact the passage of the amendment could have when it mentioned that "laws which place primary responsibility for family support on husbands and fathers" will be held unconstitutional. Prof. Jonathan H. Pincus of the Yale University School of Medicine has called this aspect of the equal rights amendment the "Tonkin Gulf resolution of the American social structure."

Mr. President, I ask unanimous consent that the portion on the equal rights amendment of the AFL–CIO's executive council report to the ninth convention No. 122 be printed in the RECORD.

WOMEN WORKERS

Over the past two years the issue of discrimination on the basis of sex has come to the fore. Numerous women's groups have been formed to monitor and influence the enforcement of such anti-discrimination legislation as the Equal Pay Act and the sex discrimination provisions of the Equal Employment Opportunity section of the 1964 Civil Rights Act (Title VII), to seek elimination of sex discrimination by government contractors, to obtain the same coverage for women under general civil rights statutes as for racial, national and religious minorities, and to promote the so-called equal rights amendment to the Constitution.

The labor movement has traditionally supported measures to eliminate discrimination against women. But it has often disagreed with particular recommendations promoted by some non-labor groups. Especially, we have opposed the equal rights amendments to the Constitution because of its potentially destructive impact on state labor legislation wor women workers.

Much of such state protective labor legislation has been eliminated or weakened by the federal courts and state legislatures on the ground that it interferes with equal opportunity for women to work. Experience, to date, shows that "equality" has been used to remove labor law protections for women, rather than to extend them or adapt them to men. The proposed equal rights amendment would render all protective labor laws for women workers unconstitutional, as well as any other laws treating the sexes differently. Such laws, for example, include marriage laws which place primary responsibility for family support on husbands and fathers.

Labor continues to voice its opposition to the proposed equal rights amendment. The 14th Amendment to the Constitution guarantees "equal protection" to citizens. There are federal statutes against discriminatory practices. The legal remedy against discriminatory practices lies in enforcement of existing statutes and in new legislation rather than by constitutional amendment.

COUNCIL RECOMMENDATION

The labor movement seeks to be increasingly responsive to the needs and wishes of its women members, within the context of overall trade union objectives. These include economic security for all workers, the extension of minimum wage and other labor standards legislation, provision of day care centers, maternity leave and benefits, access to education and training, equal pay for equal work, and elimination of discriminatory employment practices based on sex.

The AFL–CIO affirms its commitment to non-discrimination on the basis of sex. We seek to honor this commitment in collective bargaining agreements, in the conduct of union affairs, and in legislative enactments.

We continue opposition to the so-called equal rights amendment as an unnecessary addition to the Constitution, ultimately more harmful than helpful to the legal rights of women.

RESOLUTION NO. 122—WOMEN WORKERS (E. C. REPORT, PAGE 100)

The labor movement seeks to be increasingly responsive to the needs and wishes of its women members, within the context of overall trade union objectives. These include economic security for all workers, the extension of minimum wage and other labor standards legislation, provision of day care centers, maternity leave and benefits, access to education and training, equal pay for equal work, and elimination of discriminatory employment practices based on sex.

The AFL–CIO affirms its commitment to non-discrimination on the basis of sex. We seek to honor this commitment in collective bargaining agreements, in the conduct of union affairs, and in legislative enactments.

We continue opposition to the so-called equal rights amendment as an unnecessary addition to the Constitution, ultimately more harmful than helpful to the legal rights of women.

Mr. ERVIN. Mr. President, Mrs. Myra Wolfgang appeared before the Senate Committee on the Judiciary in September 1970 and made a statement in opposition to the equal rights amendment. In this statement she set forth all of the objections which she as a citizen, a woman, a widow, a mother, a worker, and a union official entertains.

I might add that during the present week Mrs. Wolfgang appeared upon the "Today" show, and during the brief time allotted to her on that nationwide telecast, made a magnificent presentment of the basic reasons for being opposed to this amendment.

The statement that she made when she appeared before the Senate Committee on the Judiciary in September 1970 and a certain exhibit attached thereto, in the form of a previous statement made by her on the subject, appear on pages 28 to 56, both inclusive, of the document entitled "Hearings Before the Committee on the Judiciary, U.S. Senate, 91st Congress, Second Session, on Senate Joint Resolution 61 and Senate Joint Resolution 231, Proposing an Amendment to the Constitution of the United States Relative to Equal Rights for Men and Women."

Those resolutions embody virtually the same language which is now embodied in House Joint Resolution 208 now before the Senate.

I ask unanimous consent that the statement by Mrs. Wolfgang on that occasion be printed in full at this point in the body of the RECORD.

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

STATEMENT OF MRS. MYRA WOLFGANG, DETROIT, VICE PRESIDENT, HOTEL & RESTAURANT EMPLOYEES, MICHIGAN, OHIO, KENTUCKY, WEST VIRGINIA; SECRETARY-TREASURER, DETROIT HOTEL & RESTAURANT EMPLOYEES; MICHIGAN WOMEN'S COMMISSION

Mrs. WOLFGANG. Thank you, Senator.

My name is Myra K. Wolfgang. I reside in the city of Detroit, State of Michigan, and am represented in this body by Senator Philip Hart. I am sorry he isn't here. I am the vice president of the Hotel & Restaurant Employees and Bartenders International Union, AFL–CIO, and secretary-treasurer of its Detroit Local No. 705. I am a member of the Michigan State Minimum Wage Board and I have served on the mayor's committee of human relations. I am, presently, a member of the Michigan Women's Commission (the Governor's Commission on the Status of Women), the first such State commission to be organized, and I have been appointed commissioner by the past three Governors of our State. I agree these credentials aren't as imposing as the judge from North Carolina. I am not a legal expert. I certainly can't interpret the law as would Paul Freund, but I think my credentials do qualify me to speak on behalf of the working women of America.

I am opposed to the enactment of the equal rights amendment to our Constitution. I state my position after long and careful consideration, in spite of the fact that we find sex prejudice parading in the cloth of tradition everywhere. We are aware that it is tailored to the patterns of ignorance and special interest.

The principle of equal pay for equal work is being violated throughout the breadth and length of this Nation. Women are being discriminated against unjustly in hiring and in promotion. Our social security laws remain discriminatory. Equal access to our educational institutions is still denied women. Qualified women are, in the main, excluded from the policymaking bodies of this Nation from the Cabinet down to our county institutions.

Fully aware of all of the inequities visited upon the women of America, I still appear here today to oppose the equal rights amendment. I believe that the amendment is not only undemocratic and its effect will bring frustration and tragedy, but that it will accomplish the exact opposite its proponents claim it will do.

I think it can be safely stated that any law which adversely affects the majority of the people of this country is undemocratic in concept and should not be adopted. The equal rights amendment in its House-passed form, now under your consideration as Senate Joint Resolution 61, should be defeated or the adverse effects removed from its provisions before passage. A simple enough syllogism from which my testimony will flow.

My major premise includes not just the concept of women being the majority of this country, as indeed we are, it includes in that concept, the vast majority of men, our counterparts in their roles as fellow human beings and citizens, husbands and fathers,

fellow workers and associates. Their welfare is so intricately tied up with what adversely affects the women of America in matters of this character, we are all indivisible. I intend to discuss the undemocratic concept of the amendment itself, its philosophy and the damage its passage would create.

As to my minor premise, my testimony is directed at proving the adverse effects of the passage of the amendment, covering not only the sociological field, but the economic and political fields as well. The conclusion is inescapable.

In less than 6 years, our country will celebrate the 200th anniversary of the Declaration of Independence. In 1987, we will also celebrate the bicentennial anniversary of our Constitution. Quite a pair of documents. You, the Judiciary Committee of the highest legislative body, provided for by that Constitution, now sit to determine the fate of an amendment to that very Constitution. Your considerations are being made in one of the most tempestuous times in our 200-year history. Seldom, if ever, has a Judiciary Committee been presented with so difficult a decision. I am sure you are fully aware of the fact that it is our Constitution, the most precious document we possess, that you are being asked to change. Not that I am necessarily opposed to change, per se, but I would hesitate to change the orbit of our world in order to get rid of smog. That the proposed change in our Constitution is submitted on the grounds that the substantive nature of the amendment will expand the equality concept of that instrument makes it all the more serious. For the fabric of our democratic concept is stitched together with the thread of equality. The fact that you consider this matter in the tumult of sexual confrontation that reaches into the homes of every American, makes your decision of all the more import. It's not a pot that you are about to tinker with. It is the needs and the wants of the overwhelming portion of the women of America. This is their special stake in the Constitution.

Until last week, I had many grave misgivings about the outcome of this legislation. I had seen the equal rights amendment run through the House of Representatives like a herd of stampeding cattle on a discharge petition maneuver. Never have so few business and professional women been so effective and done such harm. The hysteria created by bra-burning and other freak antics is not a justification for the action taken by the House of Representatives, nor is the fear of political reprisal. Let me assure you the threat is not borne of reality. It must have been this same type of hysteria that created the conditions for the passage of the Volstead Act. But now that the dust has settled and we begin to look around at the damaged past, the damaged present and the damaged future, more seasoned hands seem to be in the saddle.

Even though I appear here before you in by various capacities, capacities not usually associated by chauvinistic males with philosophical legislative considerations, I want you to know the women of America are not unaware of what Government is, what it means and what it should mean. We grow more aware daily. We know the theory around which our Constitution was conceived. Abigail Adams is not the only woman who had or has ideas about its structure, or about man's predilection for tyranny in designing laws. Molly Pitcher knew that we threw off the yoke of oppression with these words "we hold these truths to be self-evident that all men are created equal" comma, not period, for she knew that the Declaration of Independence continued on to further define equal with "that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness." And Martha Wayles Jefferson knew that her husband in penning the Virginia Declaration of Rights had written "that all men are by nature equally free and independent and have certain inherent rights; namely, the enjoyment of life and liberty, with the means of acquiring safety."

Yes, Dolly Madison knew, as I know, that our Constitution was based upon the best of man's thinking down through the ages. We know that the very foundation of all government worth having, is predicated upon laws designed to protect the unequal, those who are smaller and less strong from those who are larger and stronger.

We know that this concept is as American as squash and chitlins.

We know that the Book said "So God created man in His own image, male and female created He them." The Book also says "at the end of every 7 years thou shalt make a release." That debts shall be cancelled that men may be brought back to equal. That it says "if there be among you a poor man, thou shalt surely lend him sufficient for his need." That's the great legal equalizer. That all shall stand equal before God "from the least of them unto the greatest."

The primitive Israelite knew that all are created to be equal, that all are not of the same capacity, talent or ability, but that society shall make covenant and enact laws which shall protect those of lesser stature, no matter what the difference.

We know, as did Mrs. William Blount, and the wife of Hu Williamson know that John Locke had written that the rights of the individual was to liberty and equality. He reasoned in his second treatise on civil government that "When any number of men have, by their consent made a community, they have made that community one body with the power to act as one body, by the determination of the majority. They unite for the mutual preservation of their lives, liberties and estates." The goal of maintaining the concept of natural equality, was the prime internal function of that society.

The very basis of government is therefore to give equality by its laws and rules and regulations. John Rutledge and Patrick Henry repeatedly preached that the women in the drawing rooms of Philadelphia heard from Ben Franklin how the Greek playwrights dramatized the development of the idea of equal rights to "protect the lesser from the greater" and how Pericles orated at Thermopylae that democracy's laws 'afford equal justice to all in their private differences." How Socrates boasted that the Greeks were the best governed people because "we see that the principle of equity and equality had greater influence than elsewhere in the world."

One can trace the progress of government and indeed civilization through its increased concern and efforts to establish equality from inequality. Thomas Jefferson, 2 years before our Constitution was adopted, expressed real concern for ways to offset the inequality that he observed all over this country in his famous letter to Rev. James Madison.

Now, if one of the major and fundamental roles of government is this equalizing one, then the adoption of the so-called equal rights amendment will negate this same equalizing function under the guise of broadening it. The equal rights amendment will invalidate all the legislation, hundreds of pieces of it, which has been adopted over the last 100 years which were passed to permit a semblance of equality which had been denied women down through the ages.

There are various kinds of protection for women workers provided by State laws and regulations: (1) minimum wage; (2) overtime compensation; (3) hours of work, meal and rest period; (4) equal pay, (5) industrial homework; (6) employment before and after childbirth; (7) occupational limitations; and (8) other standards, such as seating and washroom facilities and weight-lifting limitations. It would be desirable for some of these laws to be extended to men, but the practical fact is that an equal rights amendment is likely to destroy the laws altogether rather than bring about coverage for both sexes. Those State laws that are outmoded or discriminatory, should be repealed or amended and should be handled on a case-by-case basis.

I am appalled by leaders of social institutions working hand in glove with industry leaders who wish to repeal the above-mentioned laws. I warn the women of America who seek equality without repression to reject the old saw "You can't have your cake and eat it too." That admonition comes with a hollow ring, especially from those who enjoy their having a housekeeper, wife-mother, and breadwinner combined at their disposal.

The chief conflict between those who support the equal rights amendment and those of us who oppose it is not whether women should be discriminated against, but what constitutes a discrimination. We, who want equal opportunities, equal pay for equal work and equal status for women, know that frequently we obtain real equality through a difference in treatment, rather than identity in treatment. We think that democratic concept is an important part of our Constitution.

We believe that orderly legislative revision is the practical way to erase such "specific bills for specific ills." I oppose adoption of the equal rights amendment since I believe that the adoption of the amendment would jeopardize existing labor laws and standards that apply to women; that it would create endless confusion in the wide field of laws relating to property, personal status, and marriage. This will adversely affect the women of America and their families.

Equality of opportunity for men and women must be achieved without impairing the social legislation which promotes true equality for safeguarding the health, safety, and economic welfare of all.

For an example, the passage of an hours limitation law for women provided them with a shield against obligatory overtime to permit them to carry on their life at home as wives and mothers. While all overtime should be optional for both men and women, it is absolutely mandatory that overtime for women be regulated because of her double role in our society.

At the time that State protective legislation was initiated, there were relatively few women in the labor force, yet society recognized the need to protect women workers. At present, there are more than 30 million women in the labor force. Almost 60 percent of them are married and living with their husbands. Working mothers constitute 38 percent of all working women. Obviously, the majority of women workers have domestic responsibilities, and a very substantial number of them, almost 11 million have children under the age of 18 years. Even with the 40-hour workweek, such women—between their paid employment and their many hours of cooking, cleaning, shopping, child care and other household duties—work arduously long hours. While "the double income economy" has forced millions of women winners for their families, it has not released them from home and into the labor force, millions more to be the sole or major breadwinners for their families, it has not released them from home and family responsibilities.

To deprive women of protective legislation, for as long as 1 second, frustrates their basic constitutional right to safety and the pursuit of happiness and denies to them the fundamental reason for their participation in a government of law.

You must understand that the overwhelming portion of women who work, need to work. They need their job and the income it produces. Where women are unorganized, and that means 85 percent or more of them, they depend solely upon their employer's

understanding of their home responsibilities. In most cases, he is a man more concerned with meeting production standards than he is for his female workers' children's safety and well-being. The records are replete with his answer posted on the bulletin board: "Beginning Monday, the new schedule will be 6 a.m. to 4 p.m., Monday through Saturday"—maybe even Sunday. That's how the auto plants in Detroit did it, when our hours law was temporarily repealed. The woman is then presented with the alternative of "If you cant' work, quit." Fortunately, for the vast majority of waitresses, maids, kitchen employees, that we represent, their union contracts make all overtime optional for both sexes.

In Michigan, however, only 25,000 employees are organized and covered by such provisions out of the 150,000 hospitality workers. The "take it or leave it" attitude of most of the employers on this matter is notorious. To permit this attitude to prevail, will adversely affect the welfare and safety of the women of America. This is especially true during periods of recession and a shrinking labor market. With unemployment on the increase, labor standards are under attack. The person who glibly states that no one has to work overtime, if they don't want to, does not understand that when there are not enough jobs to go around, people fight to keep those that are available. Thousands of women, because of economic necessity will submit to excessive hours without a law to protect them in order to obtain or hold a job. Thousands will work excessive hours, particularly when they see their employers calling for the nullification of protective legislation by urging passage of the equal rights amendment. They accede to this excessive overtime or quit the job. In the first instance, the children become the victims, in the second instance, the entire family suffers from the loss of that income or the mother and the family become public charges. This condition will be adversely affect not only the women of America but the vast majority of all Americans.

Let me cite a perfect example of sex inequity. Is a man who works 60–72 hours a week confronted with the same home and family responsibility that, say the mother of three children working 60–72 hours a week is? Don't talk theory to me, tell me the practice. Don't tell me the man should help his wife. He doesn't. In the first place, men are better able to work overtime than women and the testimony of New York University's Dr. Erwin. Tichauer, America's foremost biomechanical engineer and the British Industry Studies bear this out. Women's accident proneness and efficiency drop very substantially compared to men doing the same job in the same plant.

In the second place, who of the two is conditioned to accept, and indeed hold responsible to society, for the health, care, and safety of those children? Let the kids answer as they bob into the back door after school with a "where's mom?" Read some of the exhibits of statements and letters of this subject written by concerned women workers when Michigan's 54-maximum-hour law was threatened and which is attached to this testimony.

There are other various kinds of protection for female workers, provided by State law and regulation. To deprive them of the protection those laws afford, for so much as 1 second, I repeat, frustrates their basic constitutional right to "safety and the pursuit of happiness" and denies the fundamental reason for their participation in a government of law.

Gentlemen, I have said our Constitution is quite a document. Indeed it is, but it was designed by man nearly 200 years ago and the dynamics of our society makes its relevancy to some aspects of our society outdated and outmoded. But the designers, aware of that probability, made changes and updating possible.

We saw within the first 4 years, 10 amendments added to the structure. Since that time, many more amendments have been added to it. The most significant and controversial was the 14th amendment. Article I of that amendment as you know, provides "nor shall any State * * * deny to any person—the equal protection of the laws."

Now, I'm sure that Thaddeus Stevens and other Members of the 39th Congress did not have any sex in mind when they debated the issue. But they said "person," they said "any person" and they did not say "except females." I am a person and the Federal courts have so ruled and should be called upon to rule again.

That is why President Kennedy's Commission on the Status of Women after a great deal of study rejected the equal rights amendment. The Commission report stated "since the Commission is convinced that the U.S. Constitution now embodies equality of rights for men and women, we conclude that a constitutional amendment need not now be sought in order to establish that principle."

In 1968 President Johnson's Inter-Departmental Committee on the Status of Women issued the report "American Women, 1963–68" and like President Kennedy's Commission, did not recommend support for passage of the equal rights amendment.

More recently, President Nixon's Citizens Advisory Council on the Status of Women issued an endorsement of the equal rights amendment. President Nixon's Council was appointed in August 1969. Unlike the original Presidential Commission and successive Advisory Councils, it had no representation of working women but was made up of business and professional women. The Council held no public hearings and rather speedily came out with an endorsement of the equal rights amendment in February of this year. This endorsement cannot be said to represent the opinion of the majority of our citizens (silent or otherwise) as did the original President's Commission of 1963, and succeeding Advisory Councils.

President Kennedy's Commission considered the amendment with great care for a period of 2 years. Its Committee on Civil and Political Rights held open hearings on the question. I am aware of the reasons why two different administrations have two different attitudes about the adoption of the constitutional amendment approach—and it isn't because women have changed in the last 2 years, nor is it because the 14th amendment has lost its validity. The reason is the present President's Commission because of its unpresentative composition, holds a different concept of the purpose of Government and because they are totally unaware of what real working women and the housewives of America really want. Look at the membership of that Commission for the answer. The Business and Professional Women of America don't bake the bread for America, nor package the meat, nor clean the hotel rooms, nor wipe the noses, nor change the diapers, nor man the production lines, nor ring up your retail purchases.

Those of us in the struggle for the advancement of woman prefer to fight for positive measures such as equal pay for equal work and equal employment opportunities. We fought for the Civil Rights Act of 1964. We fought for and got title VII to the Civil Rights Act. In its positive application, title VII can be an effective instrument for overcoming discrimination against women in employment and can contribute substantially to their progress. However, some of the guidelines established by the Equal Employment Opportunity Commission, unfortunately, have invited an assault upon State protective legislation, without distinguishing between those provisions which might be viewed as discriminatory and those which are not, in fact, discriminatory. The result of such sweeping guidelines has made the equality that many have sought, an equality of mistreatment. May I add here it has been said that some women who work on assembly lines could be promoted to foreman if it weren't for State laws that limited the number of hours. Incidentally, I don't think that is true, because in most situations I know some attorneys in Detroit who have been handling complaints of women in the plants who are discriminated against and the hours law isn't usually the reason that is given, there is a whole gamut of reasons, discriminatory, of course. Let me point out even if that was true, for every one lady that could be promoted to a foreman, there are hundreds that would not be promoted to a foreman, and to compel them to work overtime in order to create the opportunity for the minority raises great questions as to the advisability, too.

In Detroit, six Penn Central System office women were assigned to jobs as checkers of freight cars at the Detroit area railroad yards, after they complained about sex discrimination to the Michigan Civil Rights Commission. The women had been employed as clerks and typists. Climbing in and out of boxcars as railroad checkers, is a backbreaking job, but a company executive said "They asked for equal rights, so what are they complaining about?"

Eleanor Hannon, 51, a widow with five children said, "I can't afford to quit, but I don't know how long I can last on this job, particularly if I have to work a night shift." The transfer from the office pool to the freight docks was within the scope of the railroad's contract with the Brotherhood of Railway Clerks.

Since one of my primary objections to the equal rights amendment is its destructive effect on State protective legislation, it appears to be necessary to review, briefly, the situation with regard to State protective legislation and why such protection is not obsolete at all—as is claimed by some—but still very much needed. Add excessive hours to the above-mentioned Eleanor's liberation and her problem is compounded. The denying of excessive overtime to women who do not want it is not a discrimination. Since women work endless additional hours performing domestic chores—the maximum number of hours that a woman can be compelled to work, is the heart of the matter of protective legislation. The lack of child-care centers makes it even more so. The communes that some feminists speak of are, as yet, nonexistent.

Fifty years of communism in Soviet Russia have torn down almost all of the "men only" signs that limit employment opportunities for women in most other nations of the world. In the Soviet Union more than 70 percent of the able-bodied women hold jobs. A vast number of them are doing work many men shun.

They dig ditches, drive trucks, herd cattle, lay bricks and shovel cement. They also perform surgery, command ships and airlines, manage factories, build bridges and rode a rocket into space. Medicine, a male stronghold in most countries, is a woman's world in the U.S.S.R. More than 80 percent of all medical doctors are women, and the percentage grows higher each year. Women dominate the traditionally female profession of teaching, but they also have a stronghold in engineering. Some of the Soviet Union's most impressive factories have females in positions ranging from blast furnace stoker to manager.

Though there is not a single woman pilot in America's vast fleet of commercial aircraft, women do the job in the Soviet Union, and they do it well. An all-female flight crew commanded by Capt. Lyubov Ullonova recently set three airline world records—for distance, speed, and altitude. Russia's most famous working woman is Valentina Teresh-

kova, the attractive cosmonaut who became the world's first spacewoman in a Soviet space spectacular of 1963. Yet, in "liberating" women from sexual discrimination in jobs, the Soviets have not liberated them from the age-old duties of wife, mother, and keeper of hearth and home. The result is a society of hard-working women who toil endlessly, cooking, washing, and standing in Russia's inevitable lines in addition to putting in a 40-hour work week at outside jobs. The Russian woman likes the job market the way it is, but she would like to see the liberation of her sex extended into the home as well. I believe that should would not mind bringing home the bacon so much if she did not also have to cook it. I feel that American women share this view.

Large numbers of America's women workers are employed in traditionally low-paying occupations and low-wage industries. Only 12 percent of women workers are covered by collective bargaining contracts. Average full-time women workers had a median income, scarcely above the poverty level in 1968, yet were heads of families, widowed or divorced.

What of this one-parent household? It is most difficult for widows or divorcees to remarry. This is not the case with men. When the man is left a widower with young children to care for, he usually remarries to get a mother for his children. Getting a father for a widow or divorcee's children is a solution not as readily available to women.

There are over 5 million more women than men in this country. The growth of the female population is exceeding that of the male by about 100,000 a year. The number of divorced women who do not marry is more than 30 percent larger than that of men in the same situation. Rarer, indeed, is the man who agrees to become the married ward of a builtin family. What is more, we are now living in a three-generation society. In many households, the working wife is the mother and daughter as well, caring for aged parents as well as growing children.

Do we disregard protective legislation for women, if we are unable to get such legislation for men? The passage of the equal rights amendment would do this, and it is wrong.

Ironically, many of the business and professional women, most vocal in advocating the overthrow of hour limitations, would not be affected at all, since many of the States with hour limitations already exempt them from these restrictions. I must remind those who are influenced by the business and professional women that the equal rights amendment does not require equal pay for equal work, nor does it require promotion of women to better or decisionmaking jobs. It does not elect more women to public office. It does not convince men to help with the housework.

The Federation of Business and Professional Women would do well to legislate for their own inclusion into the equal pay for equal work provision of our law rather than seek repeal of protective legislation for others as they do in a booklet published by them entitled, "How to Repeal Protective Legislation." Their booket states "The days of sweatshops and intolerable working conditions, in which exploitation of women workers was rampant, are largely passed. The notion that women are frail and require special protection is obsolete."

The days of exploitation are not over for thousands of women workers, among them the domestics who work in the homes of many of the business and professional women. They were not over for the thousands of Michigan women who worked without the protection of the State's hour limit laws during a 3-month period in 1967 and the beginning of 1968.

Let me review what occurred in Michigan for you. In the 1967 session, the Michigan Legislature passed senate bill 199 which repealed section 9 of act 285, the 10-hour day, 54 hours per week hours law for women. The same session of the legislature passed senate bill 225 establishing an occupational safety standards commission which was mandated to establish codes and occupational standards for the protection of "life, health and safety of employees" in all areas covered by act 285—proper ventilation, toilet facilities, adequate wash and dressing rooms, seats for females, safety devices, hours laws, and so forth—senate bill 225 further provided that "act 285 shall remain in full force and effect" until new standards are promulgated. In March 1968, Michigan's attorney general, Frank Kelley, resolved the conflict, by ruling that senate bill 225 went into effect prior to the repealer—senate bill 199—and therefore, the hours limitation law must remain in "full force and effect" until the new commission, conducted hearings and promulgated rules.

Legislators from both houses confessed complete ignorance as to why conflicting bills were passed. They assumed "women" wanted overtime. The secrecy with which this legislation passed—no hearings, no floor discussion—leaves no doubt, somebody knew the full repercussions of the repealer. The YWCA, the Council of Catholic Women, the Council of Jewish Women and most major women's groups and unions cheered the attorney general's decision to reinstate the 54-hour maximum workweek for women. (See exhibit of organizations.)

When the attorney general reinstated the 54-hour law, the Women's Department of the UAW dropped all pretense of wanting protective hours legislation for both men and women and blatantly offered to join the employers of Michigan in upsetting the attorney general's opinion. They did this in letters to the employer of UAW members signed by the Legal Department of the UAW (exhibit). This came as a complete shock to me since I am an admirer of that union.

The point at issue is the closing paragraph of the letter which discusses the attorney general's opinion and reads:

"It is for the foregoing reasons that we presently take the position that both the law of Michigan and the present agreement between us and the company precludes the company from denying women an opportunity to work more than 54 hours a week or more than 10 hours per day. You have indicated a desire to attempt to convince the Attorney General to reconsider his opinion. We stand ready to give you whatever assistance we can in that endeavor."

The occupational safety standards commission after holding hearings issued a regulation again, repealing the hours limitation laws for women. Then the women of Michigan really became incensed, swung into action and formed an Ad Hoc Committee Against Repeal of Protective Legislation. (See exhibit.) An outpouring of support came from all major women's organizations, church groups and labor unions, including many UAW local unions. Thousands of women signed petitions urging the reinstituting of the hours law and supported litigation started to request the court to restrain the occupational safety standards commission from repealing the hours law.

The litigation was started by Stephanie Prociuk, an employee of the Dodge Motor Co., Hamtramck Division. She was not only a member of the UAW but a shop steward and local committeewoman, as well. She had 33 years seniority, was single and the sole support of, and nurse to, an 81-year-old invalid father. She claimed in her suit that if the law remained repealed, Dodge would force her to work more than the 54-hour limit whenever they found it profitable to do so; that forced, and involuntary overtime would do "irreparable damage" to her and 200,000 other women the Ad Hoc Committee Against the Repeal of Protective Legislation represented. Her testimony revealed that Dodge did just that while the law was thought to be inapplicable in the late fall and winter of 1967–68. During that period, she testified she was called upon to work 69 hours a week, 6 days at 10 hours. On Sunday the company relented and had her work only 9 hours. She testified that women dropped over with fatigue and exhaustion and had to be removed by stretcher. This, gentlemen, took place in 1968—not at the turn of the century. She testified that forced overtime kept her from properly caring for her father, causing her undue worry and concern. She said she could not afford either a nurse or housekeeper, did her own housework, including her laundry. She said her union proved powerless to do anything about it and that the women's department of the union actually opposed any law "favoring women only."

Miss Prociuk was followed on the stand by a Chrysler employee who corroborated her testimony as to the hours worked. She was a widow with two daughters, 7 and 11, and a son, 9. She did all her own housework and had been on ADC prior to working at Chrysler's. When Chrysler was free to lengthen hours, they forced her to work 63 hours a week. She had no car, took two buses to get to work and said 3 weeks on this schedule caused her to become "sick in mind and body." She testified that if the hours law was repealed, she would "have to quit work and go back on ADC. Life is not worth living when you work like that," she added. That is, gentlemen, what I mean when I say that anything that permits the continuance of that imposition adversely affects the women of America and interferes with her right to safety and pursuit of happiness.

Another witness with 20 years' seniority in an auto factory testified that her husband was totally disabled, that she was the sole support for the family which also included an early teenage son. Her responsibilities at home took 4 hours a day and all Saturday and Sunday. Even though she got over $5 per hour for overtime. "It wasn't worth it," she said. "It's like being on a merry-go-round in a nightmare—you don't know where you are or what time it is."

Another witness, sole support of a disabled brother and a 67-year-old sister, said: "When the company could, they worked us 10 hours a day, 6 days a week, and 9 hours on Sunday," A witness employed at a meatpacking company, reported that when the hours limitation law was lifted "My boss ordered us to work 10 hours a day, 7 days a week." She pointed out that these hours "were worked in a refrigerated room when the temperature ranged from 32 to 40 degrees because it was meat we wrapped."

After hearing 2 days of testimony, Circuit Court Judge George T. Martin, ruled that the State occupational safety standards commission did not have the authority to repeal the State which restricts the number of hours a woman could work and issued an injunction restraining them from doing so. Judge Martin, in his opinion, stated—

"It has long been evident that workingwomen need protection against exploitation and hazard. It is evident that it would be dangerous to have no limitations whatever on women's hours of work, albeit some women could cope. The testimony is that the great majority of workingwomen feel that if they could not cope with additional overtime hours, they would be forced to either quit or else be fired and thereby suffer dire personal economic consequences."

The women of Michigan with an enormous sigh of relief said, "Hear. Hear." They had but a short time to enjoy the fruits of their victory for in the latter part of December 1969, Attorney General Frank Kelley, struck down the statute prohibiting women from working more than 54 hours a week or 10 hours a day for employees of employers of 25 or more persons. The attorney general's

opinion was based on his interpretation of the Equal Employment Opportunity Commission's guidelines for administering title VII of the 1964 Civil Rights Act.

"The conflict is readily apparent" Attorney General Kelley said. "The Federal statute expresses a prohibition against any employment practice which discriminates against employees with respect to compensation, terms, conditions, and privileges—now we are calling it a privilege of overtime—of employment because of their sex, but under current Michigan law, an employer must not permit a woman to work longer than 10 hours a day or 54 hours a week. Since Michigan has no law limiting the number of hours a man may work, a woman is denied the same rights—now working over 10 hours a day is a right—of overtime compensation as her male counterpart in direct violation of the Federal act," he said. And all this in the name of equality. Since when is being forced to work over 10 hours a day a privilege? Those who have testified before the subcommittee on this matter and said that if the equal rights amendment were passed, women's protective laws would "automatically be extended to men," please take note. The attorney general of Michigan who that witness' union supports for reelection didn't extend the 54-hour maximum law to men. No, sir. He invalidated it for women as attorney generals in other States are doing. Try running a household and raising three children working under that condition, gentlemen. It may be fine for lady lawyers and it may be fine for me, I haven't got the responsibilities, but it isn't fine for the woman who is working in a laundry, in a hotel, in a restaurant, in a convalescent home, and on the assembly lines, if you please.

No sooner did the attorney general issue his opinion, than the merry-go-round of excessive overtime started anew, slowed somewhat by the fact that we have been in a recession since January 1970. In spite of this, an administrative bulletin (Bulletin 32) was issued by the director of personnel for the Dodge Motor Co. announcing that "Effective immediately, there will be no restriction on hours worked." (See exhibit marked "Trim Unit Notes.")

The impact on the number of hours a woman can be worked, resulting from the attorney general's order, would be catastrophic were it not for our being in a period of business recession, but with or without a recession, the impact of the passage of the equal rights amendment will reach into endless areas of working conditions.

Laws that treat women differently than men are not necessarily "discriminatory" or unfair. Conversely, laws that arbitrarily call for sameness of treatment can be grossly unfair, extravagant and self-defeating. Another such example is the guideline being devised by the Equal Employment Opportunity Commission dealing with the health, welfare, and pension program for workers.

I am a trustee of the Detroit Hotel and Restaurant Employees Insurance and Pension Fund, a multiemployer, jointly administered fund of around 300 contributing employers covering 20,000 employees. I am concerned with the impact of the Equal Employment Opportunity Commission's guidelines in this field.

A highlight of the guidelines established by the Equal Employment Opportunity Commission which will affect the pension and welfare field is an employer prohibition against distinction based on sex in employment opportunities, wages, hours, or other conditions of employment. Under this, an employer will not have violated the guidelines if his contributions for insurance, pensions, welfare programs, and similar fringe benefits are the same for men or women or if the resulting benefits are equal. Gentlemen, this is an impossibility, as I will subsequently show.

The guideline further provides that an employer must not specify any differences for male and female employees on the basis of sex in either mandatory or optional retirement age. Will the likely result of this be to raise the normal retirement age for women or to lower the normal retirement age for men? This question must be answered, for according to Adam Hess, secretary, group division, Aetna Life & Casualty Co., the cost of providing a pension for a woman aged 60 may be almost 50 percent greater than the cost of the same dollar amount of pension for a male at age 65.

Are insurance companies discriminating against women? Of course not, but they do recognize physical and biological differences among the persons covered. Insurance companies' premise of ratemaking may not be egalitarian: rates are based on cost and utilization. It is an established insurance fact that certain benefits are used to a higher degree by females than males because of biological differences.

A study of the fund that I represent made several years ago, and resulting incidentally, in doubling our premium rate, showed that in the previous year, the utilization rate of the Stouffer Restaurant employees of hospitalization benefits, was 118 percent of premium. The employees were all young and female; their hospitalization was for pregnancies and historectomies. We had no incidence of pregnancies among our male members. So, in effect, our many male participants in the fund are contributing to the high cost of female benefits. Is this fair? Is it a discrimination or just a fact of life? Can this be changed or equalized?

Pension costs are also higher for women, because benefits to females are paid for a longer period of time, since women live longer than men. Is this an inequality, or a fact of life? Adjusting upward the retirement ages of women under existing plans to achieve equality may not be a step eagerly greeted by women who have been savoring their imminent retirement. A high price to pay for alleged equality.

The Equal Opportunity Commission has tentatively indicated that in some instances, a plan providing a widow's benefit, as contrasted to a spouse's benefit, might be found to violate title VII. Since, normally, a wife is dependent on her husband's pension, a husband usually not dependent on his wife's pension, many trustees of funds reasonably believe that providing death benefits under a retirement plan to husbands of deceased employees, especially if they have their own source of income, is an unnecessary diversion of moneys that could be used to improve benefits for employees living in retirement.

You will no doubt be told that our social security laws discriminate against women by allowing a widow's benefit in a different manner than a spouse's benefit—since women are the greatest recipients of medicare because of their longevity, perhaps the difference of survivors benefits is justified. No legislative act, gentlemen, will change the basic fact that physical and biological differences between men and women exist and affect all aspects of our life. The differences cannot be assimilated, altered, or ignored. The male participants of the hotel and restaurant employees insurance fund have had their "equality of rights under the law denied and abridged" by the insurance carrier of our fund. Our male member is receiving less benefit for the same contribution paid by the employer on his behalf than he would receive had the number of females covered by that fund been less.

Any fringe benefit given by an employer is, in effect, unpaid wages. Such employer labor cost can be given either in the form of wages or fringe benefits. If the benefit must be the same for both men and women and the contribution the same (though the rate becomes higher because of female exposure) then a larger unpaid wage to the male ensues. Yet, the Equal Employment Opportunity Commission says contributions, benefits, and wages must be the same. It can't be done.

Insurance companies will always consider human variables such as age, sex, physical differences in making natural assumptions. No equal rights amendment to the Constitution will alter the fact that unless physical limitations and differences are considered, then persons do not start out equal—and if they do not start out equal, equality is a myth, unless those differences are recognized and safeguarded.

These guidelines may be unreasonable, they have not been tested in the courts. While the Equal Employment Opportunity Commission may deal a blow to certain types of legislation, they cannot destroy or repeal laws. The equal rights amendment, however, permits no negotiation or compromise no matter what the circumstance.

The wording of the equal rights amendment may be simple, but its implications are enormous. Because of its enormity, a hysteria has been engendered. But hysteria is no justification for the passage of legislation. You don't satiate the appetite of some zealots by sacrificing the welfare of the vast majority of 82 million American women, their families, their children, their personal safety and well-being. That's what will happen if the so-called Equal Rights Act becomes our 26th amendment. That fact too makes it easy to show how the passage of the equal rights amendment will adversely affect the women of America, the vast majority of them, thereby depriving them of their right of safety and the pursuit of happiness and denies to her the fundamental reason for her participation in a government of law.

Fifty-three years ago, a similar hysteria prevailed in this country. It too, was initiated by those who would impose their beliefs on all others. It was dramatized by Carrie Nation and the Women's Christian Temperance Union. With hatchets in hand, they descended upon this Nation while her fighting men were in Europe. We ended with the infamous Volstead Act, a constitutional amendment. Can we ever forget our folly? It took 14 years to recall that mistake. Homebrew, gang wars, corruption, and the loss of billions of dollars in lost tax revenue plus millions spent in the unsuccessful attempts at law enforcement, plus the jobs of hundreds of thousands of workers were lost.

But we suffered a far greater loss in our general disregard and disrespect of the law among all segments of our population. Clearly, America had been stampeded into an ill-considered, ill-advised action. When we woke up, we rectified it. Lest we forget, the 18th amendment was the only amendment that had to be repealed. If the equal rights amendment becomes the 26th amendment, I predict it will meet the same fate. Recourse to law is but a small part of the struggle for equality. The tragedy of prohibition proved that amending our Constitution didn't change our habits, or our thirsts, or the people governed by its provisions.

Many of today's feminists oppose and resent protective legislation for women since they postulate that such legislation treats them as children whose lives have to be regulated by other adults. Yet the women's liberation groups wish to regulate the lives of other women and treat them as children telling them that the job of wife and mother is unfulfilling and unsatisfying. Should the woman, so being lectured, disagree, she is immediately charged with having been brainwashed.

Feminists, assuredly, do not represent the majority of women and do not correctly

relate their needs and feelings. For the most part, women who join "liberation groups" are white, middle class, and college oriented. The most active of these women, who do the work of the organizations, are those with no or grown children. Working women, like the mothers of young children, are too busy to be liberated.

The National Organization of Women (NOW) one of the most vocal supporters of the equal rights amendment, claim to have about 3,000 members. They speak of the discontent of wives and mothers. They speak for a small minority when they urge passage of the equal rights amendment. They do not speak for Mary Dennison of the Congress of Racial Equality who is quoted as saying, "The women's liberation movement is a luxury that only bored white woman can afford." They do not speak for the divorced, separated, or abandoned mother when they urge passage of the equal rights amendment which will weaken the husband and father obligation for child support. Divorced, separated, and deserted wives struggling to support themselves and their children may find their claims to support even harder to enforce than they are right now.

The equal rights amendment could create new obligations for women to support their husbands and children. Wives and mothers who are not in the labor force (and they are a substantial majority) may find they can no longer choose to stay out of the labor force. Under the equal rights amendment, they might become obligated for furnishing half the family support. The right of choice for these women should be protected. For many American women, particularly for these in the lower brackets, losing that choice is a heavy and undemocratic price to pay for an illogical theory of equality. I know I for one and the Michigan Women's Commission who are opposed to the equal rights amendment, and I speak for myself now, resent receiving a letter from one representative of Government asking me how to write to my other representatives of Government to vote on this issue, particularly when the franking privilege was used for that purpose. And I have here a letter with a franking privilege on it that was sent to me, I assume it says, a member of the Michigan Commission on Status of Women, although it is now called the Michigan Women's Commission and it says:

"The Equal Rights Amendment, as you know, passed the House of Representatives August 10th. The overwhelming vote of 350 to 15 represented a tremendous victory for all Americans. It doesn't tell these women what is in the bill, just a little bit of ho, hi, and hip hip hurrah. The battle is not yet won. We must assure success in the Senate. Any help you can extend by contacting the Senators from your state urging early consideration and support of my resolution, House Joint Resolution 264, without any amendment would be gratefully appreciated.—Martha W. Griffiths."

I am a taxpayer and I resent having my taxpayer's money used for that type of literature.

Women's Liberation is the most misused and abused phrase in the English language. To some, the word means—liberation from marriage—liberation from housework—liberation from bearing and rearing children—liberation from all forms of social responsibility—copping out. To others, not so.

I believe women should be a part of a social movement dedicated to reforming our social structure to permit true equality between the sexes. It should accomplish for all women, young and old, married and single, housewives and breadwinners, mothers and the childless, wives and widows; their goals and aspirations. It should improve their life, gain recognition for their double role in society and the recognition of that responsibility. It should broaden the fruits of science to lessen the drudgery of our housework and to making clothing functional, yet enhancing. It should bring peace to the world and bring our teenagers home, going to colleges or learning a trade rather than working toward expanding the draft by including women to kill and destroy. It should fight to maintain the right to stay home as a housewife and mother, if circumstances permit, and that be the preference of the individual woman. It should fight to have an economy that is free from hunger and privation that affords freedom from want and need in a society that promises every man and woman equal pay for equal work. That's the kind of liberation I'm interested in.

Let's get over this notion that all women want the equal rights amendment. They don't. And when it is explained to them, the majority of them don't and they will rue the day that it is passed if it is ever passed.

Not everyone agrees with me, I am sure, for there is no more unanimity of opinion among women than among men. The plight of the black woman forced to leave her children untended as she goes off to clean the home of the rich woman is unbridgeable. Both may be wives and mothers, both are women, but they have little in common to cause them to be of one opinion.

We live in a world of socially prescribed differences, of fashion prejudices, of customs relating to masculinity and femininity. To achieve equality, we must start equal by recognizing physical and biological differences. We are different, and remember, different does not mean deficient.

I heard testimony before the judiciary subcommittee which favored passage of the equal rights amendment. One witness argued that although the passage of the equal rights amendment would obviously create many hardships for women, the long-term benefits would outweigh the short-term losses. I wondered about the cogency of such a position. I reread the testimony. Then I began to think about the basic contention advanced. I thought about the philosophical footings to such a position. I reject such an argument for the following reasons:

1. That kind of reasoning gives cogency to the specious male admonition "You can't have your cake and eat it too." But, we are not talking about anything as transitory as cake or some object which deteriorates upon usage. That philosophy assumes that rights don't grow, that there is no place for orderly advancement and expansions of a right. That philosophy presupposes no orderly progression for the rights of man, the opposite has been the case. Forcing a working mother, the sole support of her family, out of work and onto ADC, because she will not neglect her children by working excessive overtime, does not make sense either for her or the taxpayer. Particularly since the equal rights amendment may take 10 years to adjudicate as Congresswoman Griffiths, herself, considers a likely possibility. (As quoted in the Detroit News.) This is not like giving 18-year-olds the right to vote—for no one suffers in extending democracy. The adoption of the equal rights amendment will not extend democracy and will create suffering.

2. That kind of reasoning puts forth the idea—two birds in the bush is worth one bird in the hand—though we know those two birds, one's a vulture and the other a pterodactyl. That lack of reasoning is like saying that a mother of four children, who has difficulty collecting her child support payment from her divorced husband, will be happy to have his financial responsibility divided equally with hers. All that kind of immediate so-called equality to be theoretically on the same level as her husband and hope that some fine day she will be able to work unlimited overtime.

3. That type of philosophy advanced by the business and professional women can best be characterized by the expression, let's you and him fight or better still, as workingwomen, stand in the downpour to say every cloud has a silver lining. That's what Noah heard.

No gentlemen, women receive nothing, absolutely nothing from the equal rights amendment except a vague male guilt freeing generality about "pie in the sky, bye and bye"—what we lose may not be all we hope to get, but it's the fruit of our 100 years effort and we have it now today, we need it now today, and we don't propose giving it up today or in the immediate or even distant future.

I have attempted to convey to you my opposition to the equal rights amendment as a citizen, woman, widow, mother, worker and union official representing thousands of women (and men). I have tried to prove that women (and men, as well) will suffer adversely, socially, politically and economically. I have endeavored to prove to you that the action before you is based upon an undemocratic concept contrary to the philosophy embodied in our Constitution.

I urge you to oppose Senate Joint Resolution 61. The legislative process of enacting "specific bills for specific ills" must be invoked to correct the inequities in our society today.

The differences between men and women cannot be changed by an act of Congress—or by a constitutional amendment.

Thank you very much. I will be very happy to answer any questions.

Senator ERVIN. Let the record show that the exhibits attached to the statement of Mrs. Wolfgang will all be printed in full as part of the record at this point.

(The material referred to follows:)

TESTIMONY OF MYRA K. WOLFGANG

My name is Myra K. Wolfgang. I reside in the City of Detroit, State of Michigan, and am represented in this body by Senator Philip Hart. I am Vice President of the Hotel and Restaurant Employees and Bartenders International Union AFL–CIO and Secretary-Treasurer of its Detroit Local, No. 705. I am a member of the Michigan State Minimum Wage Board and I have served on the Mayor's Committee of Human Relations I am, presently, a member of the Michigan. Women's Commission (the Governor's Commission on the Status of Women).

I am opposed to the enactment of the Equal Rights Amendment to our Constitution. I state my position after long and careful consideration in spite of the fact that we find sex prejudice parading in the cloth of tradition everywhere. We are aware that it is tailored to the patterns of ignorance and special interest.

The principle of equal pay for equal work is being violated throughout the breadth and length of this Nation. Women are being discriminated against unjustly in hiring and in promotion. Our social security laws remain discriminatory. Equal access to our educational institutions is still denied women. Qualified women are, in the main, excluded from the policy making bodies of this nation from the Cabinet down to our County institutions.

Fully aware of all of the inequities visited upon the women of America, I still appear here today to oppose the Equal Rights Amendment. I believe that the amendment is not only undemocratic and its effects will bring frustration and tragedy, but that, it will accomplish the exact opposite its proponents claim it will do.

I think it can be safely stated that any law which adversely effects the majority of the people of this country is undemocratic in concept and should not be adopted. The Equal Rights Amendment in its House passed form, now under your consideration as S. J. Resolution #61 should be defeated or the ad-

verse effects removed from its provisions before passage. A simple enough syllogism from which my testimony will flow.

My major premise includes, not just the concept of women being the majority of this country, as indeed we are, it includes in that concept, the vast majority of men, our counterparts in their roles as fellow human beings and citizens, husbands and fathers, fellow workers and associates. Their welfare is so intricately tied up with what adversely effects the women of America in matters of this character, we are all indivisible. I intend to discuss the undemocratic concept of the amendment itself, its philosophy and the damage its passage would create.

As to my minor premise, my testimony is directed at proving the adverse effects of the passage of the amendment, covering not only the sociological field, but the economic and political fields as well. The conclusion is inescapable.

In less than 6 years, our country will celebrate the 200th Anniversary of the Declaration of Independence. In 1987, we will also celebrate the bi-centennial Anniversary of our Constitution. Quite a pair of documents. You, the Judiciary Committee of the highest legislative body provided for by that Constitution now sit to determine the fate of an amendment to that very Constitution. Your considerations are being made in one of the most tempestuous times in our near 200 year history. Seldom, if ever, has a Judiciary Committee been presented with so difficult a decision. I am sure you are fully aware of the fact that it is our Constitution, the most precious document we possess, that you are being asked to change. Not that I am necessarily opposed to "change per se" but I would hesitate to change the orbit of our world in order to get rid of smog. That the proposed change in our Constitution is submitted on the grounds that the substantive nature of the amendment will expand the equality concept of that instrument makes it all the more serious. For the fabric of our democratic concept is stitched together with the thread of equality. The fact that you consider this matter in the tumult of sexual confrontation that reaches into the homes of every American, makes your decision of all the more import. It's not a pot that you are about to tinker with. It is the needs and the wants of the overwhelming portion of the women of America. This is their special stake in the Constitution.

Until last week I had many grave misgivings about the outcome of this legislation. I had seen the Equal Rights Amendment run through the House of Representatives like a herd of stampeded cattle on a discharge petition maneuver. Never, have so few business and professional women been so effective and done such harm. The hysteria created by bra-burning and other freak antics is not a justification for the action taken by the House of Representatives, nor is the fear of political reprisal. Let me assure you the threat is not borne of reality. It must have been this same type of hysteria that created the conditions for the passage of the Volstead Act. But now that the dust has settled and we begin to look around at the damaged past, the damage present and the damage future, more seasoned hands seem to be in the saddle.

Even though I appear here before you in my various capacities, capacities not usually associated by chauvinistic males with philosophical legislative considerations, I want you to know the women of America are not unaware of what government is, what it means and what it should mean. We grow more aware daily. We know the theory around which our Constitution was conceived. Abigail Adams is not the only woman who had or has ideas about its structure, or about man's predilection for tyranny in designing laws. Molly Pitcher knew that we threw off the yoke of oppression with these words "we hold these truths to be self-evident that all men are created equal" comma, not period, for she knew that the Declaration of Independence continued on to further define equal with "that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness." And Martha Wayles Jefferson knew that her husband in penning the Virginia Declaration of Rights, had written "that all men are by nature equally free and independent and have certain inherent rights, namely the enjoyment of life and liberty, with the means of acquiring *safety*".

Yes, Dolly Madison knew, as I know, that our Constitution was based upon the best of man's thinking down through the ages. We know that the very foundation of all government worth having, is predicated upon laws designed to protect the unequal, those who are smaller and less strong from those who are larger and stronger.

We know that this concept is as American as squash and chitlins.

We know that the Book said "So God created man in His own image, male and female created He them." The Book also says "at the end of every 7 years thou shalt make a release." That debts shall be cancelled that men may be brought back to equal. That it says "if there be among you a poor man, thou shalt surely lend him sufficient for his need." That's the great legal equalizer. That all shall stand equal before God "from the least of them unto the greatest."

The primitive Israelite knew that all are created *to be* equal, that all are not of the same capacity, talent or ability, but that society shall make covenant and enact laws which shall protect those of lesser stature, no matter what the difference.

We know, as did Mrs. William Blount, and the wife of Hu Williamson know that John Locke had written that the rights of the individual was *TO* liberty and equality. He reasoned in his second treatise on Civil Government that "When any number of men have, by their consent made a community, they have made that community one body with the power to act as one body, by the determination of the majority. They unite for the mutual preservation of their lives, liberties and estates". The goal of maintaining the concept of natural equality, was the prime internal function of that society.

The very basis of government is therefore to give equality by its laws and rules and regulations. John Rutledge and Patrick Henry repeatedly preached that the women in the drawing rooms of Philadelphia heard from Ben Franklin how the Greek playwrights dramatized the development of the idea of Equal Rights to "protect the lesser from the greater" and how Pericles orated at Thermopylae that Democracy's laws "afford equal justice to all in their private differences". How Isocrates boasted that the Greeks were the best governed people because "we see that the principle of equity and equality had greater influence than elsewhere in the world".

One can trace the progress of government and indeed civilization through its increased concern and efforts to establish equality from inequality. Thomas Jefferson, two years before our Constitution was adopted, expressed real concern for ways to offset the inequality that he observed all over this country in his famous letter to Reverend James Madison.

Now, if one of the major and fundamental roles of government is this equalizing one, then the adoption of the so-called Equal Rights Amendment will negate this same equalizing function under the guise of broadening it. The Equal Rights Amendment will invalidate all the legislation, hundreds of pieces of it, which has been adopted over the last 100 years which were passed to permit a semblance of equality which had been denied women down through the ages.

There are various kinds of protection for women workers provided by State laws and regulations (1) minimum wage; (2) overtime compensation; (3) hours of work, meal and rest period; (4) equal pay; (5) industrial homework; (6) employment before and after childbirth; (7) occupational limitations; and (8) other standards, such as seating and washroom facilities and weightlifting limitations. It would be desirable for some of these laws to be extended to men, but the practical fact is that an Equal Rights Amendment is likely to destroy the laws altogether rather than bring about coverage for both sexes. Those State laws that are outmoded or discriminatory, should be repealed or amended and should be handled on a "case by case" basis.

I am appalled by leaders of social institutions working hand in glove with industry leaders who wish to repeal the above mentioned laws. I warn the women of America who seek equality without repression to reject the old saw "you can't have your cake and eat it too". That admonition comes with a hollow ring, especially from those who enjoy their having a housekeeper, wife-mother, and breadwinner combined at their disposal.

The chief conflict between those who support the Equal Rights Amendment and those of us who oppose it, is not whether women should be discriminated against, but what constitutes a discrimination. We, who want equal opportunities, equal pay for equal work and equal status for women, know that frequently we obtain real equality through a difference in treatment, rather than identity in treatment. We think that democratic concept is an important part of our Constitution.

We believe that orderly legislative revision is the practical way to erase such "specific bills for specific ills". I oppose adoption of the Equal Rights Amendment since I believe that the adoption of the amendment would jeopardize existing labor laws and standards that apply to women. That it would create endless confusion in the wide field of laws relating to property, personal status and marriage. This will adversely affect the women of America and their families.

Equality of opportunity for men and women must be achieved without impairing the social legislation which promotes true equality for safeguarding the health, safety and economic welfare of all.

For an example, the passage of an hours limitation law for women provided them with a shield against obligatory overtime to permit them to carry on their life at home as wives and mothers. While all overtime should be optional for both men and women, it is absolutely mandatory that overtime for women be regulated because of her double role in our society.

At the time that State protective legislation was initiated, there were relatively few women in the labor force, yet, society recognized the need to protect women workers. At present, there are more than 30,000,000 women in the labor force. Almost 60% of them are married and living with their husbands. Working mothers constitute 38% of all working women. Obviously, the majority of women workers have domestic responsibilities, and a very substantial number of them, almost 11,000,000 have children under the age of 18 years. Even with the 40 hour work week, such women—between their paid employment and their many hours of cooking, cleaning, shopping, child-care and other household duties—work arduously long hours. While "the double income economy" has forced millions of women into the labor force, millions more the sole or major breadwinners for their families, it has not released them from home and family responsibilities.

To deprive women of protective legislation, for as long as one second, frustrates their basic constitutional right to safety and the pursuit of happiness and denies to them the fundamental reason for their participation in a government of law.

You must understand that the overwhelming portion of women who work, need to work. They need their job and the income it produces. Where women are unorganized and that means 85% or more of them, they depend solely upon their employer's understanding of their home responsibilities. In most cases, he is a man more concerned with meeting production standards than he is for his female workers' childrens safety and well-being. The records are replete with his answer posted on the bulletin board "beginning Monday, the new schedule will be 6 A.M. to 4 P.M.—Monday through Saturday" (maybe even Sunday). That's how the auto plants in Detroit did it, when our hours law was temporarily repealed. The woman is then presented with the alternative of "if you can't work, quit". Fortunately, for the vast majority of waitresses, maids, kitchen employees, that we represent, their Union contracts make all overtime optional for both sexes. In Michigan, however, only 25,000 employees are organized and covered by such provisions out of the 150,000 hospitality workers. The "take it or leave it" attitude of most of the employers on this matter is notorious.

To permit this attitude to prevail, will adversely affect the welfare and safety of the women of America. Especially is this true during periods of recession and a shrinking labor market. With unemployment on the increase, labor standards are under attack. The person who glibly states that no one has to work overtime, if they don't want to, does not understand that when there are not enough jobs to go around, people fight to keep those that are available. Thousands of women, because of economic necessity will submit to excessive hours without a law to protect them in order to obtain or hold a job. Thousands will work excessive hours, particularly when they see their employers calling for the nullification of protective legislation by urging passage of the Equal Rights Amendment. They accede to this excessive overtime or quit the job. In the first instance, the children become the victims, in the second instance, the entire family suffers from the loss of that income or the mother and the family become public charges. This condition will adversely affect not only the women of America but the vast majority of all Americans.

Let me cite a perfect example of sex inequity. Is a man who works 60–72 hours a week confronted with the same home and family responsibility that, say the mother of three children working 60–72 hours a week is. Don't talk theory to me, tell me the practice. In the first place, men are better able to work overtime than women and the testimony of New York University's Dr. Erwin Tichauer, America's foremost bio-mechanical engineer and the British Industry Studies bear this out. Women's accident proneness and efficiency drop very substantially compared to men doing the same job in the same plant.

In the second place, who of the two is conditioned to accept, and indeed hold responsible to society, for the health, care and safety of those children. Let the kids answer as they bob into the back door after school with a "where's Mom?" Read some of the exhibits of statements and letters of this subject written by concerned women workers when Michigan's 54-maximum hour law was threatened and which is attached to this testimony.

There are other various kinds of protection for female workers, provided by State law and regulation. To deprive them of the protection those laws afford, for so much as one second, I repeat, frustrates their basic constitutional right to "safety and the pursuit of happiness" and denies the fundamental reason for their participation in a government of law.

Gentlemen, I have said our Constitution is quite a document. Indeed it is, but it was designed by man nearly 200 years ago and the dynamism of our society makes its relevancy to some aspects of our society outdated and outmoded. But the designers, aware of that probability, made changes and updating possible.

We saw within the first four years, 10 amendments added to the structure. Since that time, many more amendments have been added to it. The most significant and controversial was the XIV Amendment. Article I of that amendment as you know, provides "nor shall any State . . . deny to any person the equal protection of the laws."

Now, I'm sure that Thaddeus Stevens and the other members of the 39th Congress did not have any sex in mind when they debated this issue. But they said "person," they said "any person" and they did not say except females. I am a person and the Federal Courts have so ruled.

That is why President Kennedy's Commission on the Status of Women after a great deal of study rejected the Equal Rights Amendment. The Commission report stated "since the Commission is convinced that the United States Constitution now embodies equality of rights for men and women, we conclude that a constitutional amendment need not now be sought in order to establish that principle."

In 1969 President Johnson's Inter-Departmental Committee on the Status of Women issued the report "American Women 1963–1968" and like President Kennedy's Commission, did not recommend support for passage of the Equal Rights Amendment.

More recently, President Nixon's Citizens Advisory Council on the Status of Women issued an endorsement of the Equal Rights Amendment. President Nixon's Council was appointed in August 1969. Unlike the original Presidential Commission and successive Advisory Councils, it had no representation of working women but was made up of business and professional women. The Council held no public hearings and rather speedily came out with an endorsement of the Equal Rights Amendment in February of this year. This endorsement cannot be said to represent the opinion of the majority of our citizens (silent or otherwise) as did the original President's Commission of 1963, and succeeding Advisory Councils.

President Kennedy's Commission considered the Amendment with great care for a period of two years. Its Committee on Civil and Political Rights held open hearings on the question. I am aware of the reasons why two different administrations have two different attitudes about the adoption of the Constitutional Amendment approach—and it isn't because women have changed in the last two years, nor it is because the 14th Amendment has lost its validity. The reason is the present President's Commission because of its unpresentative composition, holds a different concept of the purpose of government and because they are totally unaware of what real working women and the housewives of America really want. Look at the membership of that Commission for the answer. The Business and Professional Women of America don't bake the bread for America, nor package the meat nor clean the hotel rooms, nor wipe the noses, nor change the diapers, nor man the production lines, nor ring up your retail purchases.

Those of us in the struggle for the advancement of women prefer to fight for positive measures such as equal pay for equal work and equal employment opportunities. We fought for the Civil Rights Act of 1964. We fought for and got Title VII to the Civil Rights Act. In its positive application, Title VII can be an effective instrument for overcoming discrimination against women in employment and can contribute substantially to their progress. However, some of the guidelines established by the Equal Employment Opportunity Commission, unfortunately, have invited an assault upon State protective legislation, without distinguishing between those provisions which might be viewed as discriminatory and those which are not, in fact, discriminatory. The result of such sweeping guidelines has made the equality that many have sought, an equality of mistreatment.

In Detroit, six Penn Central System office women were assigned to jobs as checkers of freight cars at the Detroit-area railroad yards, after they complained about sex discrimination to the Michigan Civil Rights Commission. The women had been employed as clerks and typists. Climbing in and out of box cars as railroad checkers, is a back-breaking job, but a company executive said "they asked for equal rights, so what are they complaining about?"

Eleanor Hannon, 51, a widow with five children, said "I can't afford to quit, but I don't know how long I can last on this job, particularly if I have to work a night shift". The transfer from the office pool to the freight docks was within the scope of the railroad's contract with the Brotherhood of Railway Clerks.

Since, one of my primary objections to the Equal Rights Amendment is its destructive effect on State protective legislation, it appears to be necessary to review, briefly, the situation with regard to State protective legislation and why such protection is not obsolete at all—as is claimed by some—but still very much needed. Add excessive hours to the above mentioned Eleanor's liberation and her problem is compounded! The denying of excessive overtime to women who do not want it is not a discrimination. Since women work endless additional hours performing domestic chores—the maximum number of hours that a woman can be compelled to work, is the heart of the matter of protective legislation. The lack of child-care centers makes it even more so. The "communes" that some feminists speak of are, as yet, non-existent.

Fifty years of communism in Soviet Russia have torn down almost all of the "men only" signs that limit employment opportunities for women in most other nations of the world. In the Soviet Union more than 70% of the able-bodied women hold jobs. A vast number of them are doing work many men shun.

They dig ditches, drive trucks, herd cattle, lay bricks and shovel cement. They also perform surgery, command ships and airliners, manage factories, build bridges and rode a rocket into space. Medicine, a male stronghold in most countries, is a woman's world in the U.S.S.R. More than 80% of all medical doctors are women, and the percentage grows higher each year. Women dominate the traditionally female profession of teaching, but they also have a stronghold in engineering. Some of the Soviet Union's most impressive factories have females in positions ranging from blast furnace stoker to manager.

Though there is not a single woman pilot in America's vast fleet of commercial aircraft, women do the job in the Soviet Union, and they do it well. An all female flight commanded by Captain Lyubov Ulonova recently set three airline world records—for distance, speed and altitude. Russia's most famous working women is Valentina Tereshkova, the attractive cosmonaut who because the world's first spacewoman in a Soviet Space spectacular of 1963.

Yet, in "liberating" women from sexual discrimination in jobs, the Soviets have not liberated them from the age-old duties of wife, mother and keeper of hearth and home. The result in a society of hard-working women who toil endlessly, cooking, washing and standing in Russia's inevitable lines in addition to putting in a 40-hour work week at

outside jobs. The Russian women likes the job market the way it is, but she would like to see the liberation of her sex extended into the home as well. I believe that she would not mind bringing home the bacon so much if she did not also have to cook it. I feel that American women share this view.

Large numbers of America's women workers are employed in traditionally low-paying occupations and low-wage industries. Only 12% of women workers are covered by collective bargaining contracts. Average full-time women workers had a median income, scarely above the poverty level in 1968, yet were heads of families, widowed or divorced.

What of this one-parent household? It is most difficult for widows or divorcees to remarry. This is not the case with men. When the man is left a widower with young children to care for he usually re-marries to get "a mother for his children". Getting a father for a widow or divorcee's children is a solution not as readily available to women.

There are over 5 million more women than men in this country. The growth of the female population is exceeding that of the male by about 100,000 a year. The number of divorced women who do not remarry is more than 30% larger than that of men in the same situation. There are over 8 million widows in this Country. The widow is almost totally helpless in this situation. Rare, indeed, is the man who agrees to become the married ward of a built-in family. What is more, we are now living in a three-generation society. In many households, the working wife is the mother and daughter as well, caring for aged parents as well as growing children.

Do we discard protective legislation for women, if we are unable to get such legislation for men? The passage of the Equal Rights Amendment would do this, and it is wrong. Ironically, many of the Business and Professional women, most vocal in advocating the overthrow of hour limitations, would not be affected at all, since many of the States with hours limitations already exempt them from these restrictions. I must remind those who are influenced by the Business and Professional Women that the Equal Rights Amendment does not require equal pay for equal work, nor does it require promotion of women to better or "decision making jobs". It does not elect more women to public office. It does not convince men to help with the housework.

The Federation of Business and Professional Women would do well to legislate for their own inclusion into the equal pay for equal work provision of our law rather than seek repeal of protective legislation for others as they do in a booklet published by them entitled "How to Repeal Protective Legislation". Their booklet states "the days of sweat shops and intolerable working conditions, in which exploitation of women workers went rampant, are largely passed. The notion that women are frail and require special protection is obsolete".

The days of exploitation are not over for thousands of women workers, among them the domestics who work in the homes of many of the Business and Professional Women!! They were not over for thosuands of Michigan women who worked without the protection of the State's hour limit laws during a three month period in 1967 and the beginning of 1968.

Let me review what occurred in Michigan for you. In the 1967 session, the Michigan Legislature passed Senate Bill 199 which repealed Section 9 of Act 285, the 10-hour day—54 hours per week hours law for women. The same session of the Legislature passed Senate Bill 225 establishing an Occupational Safety Standards Commission which was mandated to establish codes and occupational standards for the protection of "life, health and safety of employees" in all areas covered by Act 285 (proper ventilation, toilet facilities, adequate wash and dressing rooms, seats for females, safety devices, hours laws, etc.) Senate Bill 225 further provided that "Act 285 shall remain in full force and effect" until new standards are promulgated. In March 1968, Michigan's Attorney-General, Frank Kelley, resolved the conflict, by ruling that Senate Bill 225 went into effect prior to the repealer (Senate Bill 199) and therefore, the hours limitation law must remain in "full force and effect" until the new commission, conducted hearings and promulgated rules.

Legislators from both houses confessed complete ignorance as to why conflicting bills were passed. They assumed "women" wanted overtime. The secrecy with which this legislation passed (no hearings, no floor discussion) leaves no doubt, somebody knew the full repercussions of the repealer. The Y.W.C.A., the Council of Catholic Women, the Council of Jewish Women and most major women's groups and unions cheered the Attorney-General's decision to reinstate the 54-hour maximum work week for women. (see Exhibit of organizations).

When the Attorney-General re-instated the 54-hour law, the Women's Department of the U.A.W. dropped all pretense of wanting protective hours legislation for both men and women and blatantly offered to join the employers of Michigan in upsetting the Attorney-General's opinion. They did this in letters to the employers of U.A.W. members signed by the legal department of the U.A.W. (Exhibit.) This came as a complete shock to me since I am an admirer of that union.

The point at issue is the closing paragraph of the letter which discusses the Attorney-General's opinion and reads "It is for the foregoing reasons that we presently take the position that both the law of Michigan and the present agreement between us and the company precludes the company from denying women an opportunity to work *more* than 54-hours a week or *more* than 10-hours per day. You have indicated a desire to attempt to convince the Attorney-General to reconsider his opinion. We stand ready to give you whatever assistance we can in that endeavor."

The Occupational Safety Standards Commission after holding hearings issued a regulation again, repealing the hours limitation laws for women. Then the women of Michigan really became incensed, swung into action and formed an Ad-Hoc Committee against Repeal of Protective Legislation. (See Exhibit) An outpouring of support came from all major women's organizations, church groups and labor unions, including many U.A.W. local unions. Thousands of women signed petitions urging the re-instituting of the hours law and supported litigation started to request the court to restrain the Occupational Safety Standards Commission from repealing the hours law.

The litigation was started by Stephanie Prociuk, an employee of the Dodge Motor Company, Hamtramck Division. She was not only a member of the U.A.W. but a shop steward and local committee-woman, as well. She had 33 years seniority, was single and the sole support of, and nurse to, an 81-year old invalid father. She claimed in her suit that if the law remained repealed, Dodge would force her to work more than the 54-hour limit whenever they found it profitable to do so; that forced, and involuntary overtime would do "irreparable damage" to her and 200,000 other women the Ad-Hoc Committee Against the Repeal of Protective Legislation represented. Her testimony revealed that Dodge *did just that* while the law was thought to be inapplicable in the late fall and winter of 1967–68. During that period, she testified she was called upon to work 69 hours a week, six days at 10 hours. On Sunday the company relented and had her work only 9 hours. She testified that women dropped over with fatigue and exhaustion and had to be removed by stretcher. This gentlemen, took place in 1968—not at the turn of the Century!! She testified that forced overtime kept her from properly caring for her father causing her undue worry and concern. She said she could not afford either a nurse or housekeeper, did her own housework, including her laundry. She said her union proved powerless to do anything about it and that the women's department of the union actually opposed any law "favoring women only".

Miss Prociuk was followed on the stand by a Chrysler employee who corroborated her testimony as to the hours worked. She was a widow with two daughters, 7 and 11 and a son 9. She did all her own housework and had been on ADC prior to working at Chrysler's. When Chrysler was free to lengthen hours, they forced her to work 63 hours a week. She had no car, took two buses to get to work and said three weeks on this schedule caused her to become "sick in mind and body." She testified that if the hours law was repealed, she would "have to quit work and go back on ADC. Life is not worth living when you work like that" she added. That is, gentlemen, what I mean when I say that anything that permits the continuance of that imposition adversely affects the women of America and interferes with her right to safety and pursuit of happiness.

Another witness with 20 years seniority in an auto factory testified that her husband was totally disabled, that she was the sole support for the family which also included an early teenage son. Her responsibilities at home took four hours a day and all Saturday and Sunday. Even though she got over $5.00 per hour for overtime, "it wasn't worth it" she said. "It's like being on a merry go round in a nightmare—you don't know where you are or what time it is".

Another witness, sole support of a disabled brother and a 67-year-old sister, said "when the company could, they worked us 10 hours a day six days a week and 9 hours on Sunday." A witness employed at a meat packing company, reported that when the hours limitation law was lifted "my boss ordered us to work 10 hours a day seven days a week". She pointed out that these hours "were worked in a refrigerated room when the temperatures ranged from 32 to 40 degrees" because it was meat we wrapped.

After hearing two days of testimony, Circuit Court Judge George T. Martin, ruled that the State Occupational Safety Standards Commissions did not have the authority to repeal the State law which restricts the number of hours a woman could work and issued an injunction restraining them from doing so. Judge Martin, in his opinion, stated "it has long been evident that working women need protection against exploitation and hazard. It is evident that it would be dangerous to have no limitations whatever on women's hours of work, albeit some women could cope. The testimony is that the great majority of working women feel that if they could not cope with additional overtime hours, they would be forced to either quit or else be fired and thereby suffer dire personal economic consequences".

The women of Michigan with an enormous sigh of relief said "hear hear!". They had but a short time to enjoy the fruits of their victory for in the latter part of December 1969—Attorney-General Frank Kelley, struck down the statute prohibiting women from working more than 54 hours a week or 10 hours a day for employees of employers of 25 or more persons. The Attorney-General's opinion was based on his interpretation of the Equal Employment Opportunity Commission's guidelines for administering Title VII of the 1964 Civil Rights Act.

"The conflict is readily apparent" Attorney-General Kelley said. "The Federal statute expresses a prohibition against any employment practice which discriminates

against employees with respect to compensation, terms, conditions and *privileges* of employment because of their sex, but under current Michigan law, an employer must not permit a woman to work longer than 10 hours a day or 54 hours a week. "Since Michigan has no law limiting the number of hours a man may work, a woman is denied the same rights of overtime compensation as her male counterpart in direct violation of the Federal Act" he said. And all this in the name of equality! Since when is being forced to work over 10 hours a day a privilege? Those who have testified before the Sub-Committee on this matter and said that if the Equal Rights Amendment were passed, women's protective laws would "automatically be extended to men", please take note. The Attorney-General of Michigan who that witness' union supports for reelection, didn't extend the 54-hour maximum law to men. No Sir! He invalidated it for women as Attorney-Generals in other States are doing.

No sooner did the Attorney-General issue his opinion, than the merry go round of excessive overtime started anew, slowed somewhat by the fact that we have been in a recession since January 1970. In spite of this, an administrative bulletin (Bulletin 32) was issued by the Director of Personnel for the Dodge Motor Company announcing that "Effective immediately, there will be no restrictions on hours worked." (See Exhibit marked "Trim Unit Notes).

The impact on the number of hours a woman can be worked, resulting from the Attorney-General's order, would be catastrophic were it not for our being in a period of business recession, but with or without a recession, the impact of the passage of the Equal Rights Amendment will reach into endless areas of working conditions.

Laws that treat women differently than men are not necessarily "discriminatory" or unfair. Conversely, laws that arbitrarily call for sameness of treatment can be grossly unfair, extravagant and self-defeating. Another such example is the guideline being devised by the Equal Employment Opportunity Commission dealing with the Health, Welfare and Pension program for workers.

I am a Trustee of the Detroit Hotel and Restaurant Employes Insurance and Pension Fund, a multi-employer, jointly administered fund of around 300 contributing employers covering 20,000 employees. I am concerned with the impact of the Equal Employment Opportunity Commission's guideline in this field.

A highlight of the guidelines established by the Equal Employment Opportunity Commission which will affect the pension and welfare field is an employer prohibition against distinction based on sex in employment opportunities, wages, hours or other conditions of employment. Under this, an employer will not have violated the guideline if his contributions for insurance, pensions, welfare programs and similar fringe benefits are the same for men or women or if the resulting benefits are equal. Gentlemen, this is an impossibility, as I will subsequently show.

The guideline further provides that an employer must not specify any differences for male and female employees on the basis of sex in either mandatory or optional retirement age. Will the likely result of this be to raise the normal retirement age for women or to lower the normal retirement age for men? This question must be answered for according to Adam Hess, Secretary, Group Division Aetna Life and Casualty Company, the cost of providing a pension for a woman age 60 may be almost 50% greater than the cost of the same dollar amount of pension for a male at age 65."

Are insurance companies discriminating against women? Of course not, but they do recognize physical and biological differences among the persons covered. Insurance companies premise of rate-making may not be egalitarian, rates are based on cost and utilization. It is an established insurance fact that certain benefits are used to a higher degree by females than males because of biological differences.

A study of the Fund that I represent, made several years ago, and resulting incidentally, in doubling our premium rate, showed that in the previous year, the utilization rate of the Stouffer Restaurant employees of hospitalization benefits, were 118% of premium. The employees were all young and female, their hospitalization was for pregnancies and hysterectomies. We had no incidence of pregnancies among our male members. So, in effect, our many male participants in the Fund are contributing to the high cost of female benefits. Is this fair? Is it a discrimination or just a fact of life? Can this be changed or equalized?

Pension costs are also higher for women, because benefits to females are paid for a longer period of time, since women live longer than men. Is this an inequality or, a fact of life? Adjusting upward the retirement ages of women under existing plans to achieve equality, may not be a step eagerly greeted by women who have been savoring their imminent retirement. A high price to pay for alleged equality!

The Equal Employment Opportunity Commission has tentatively indicated that in some instances, a plan providing a widow's benefit as contrasted to a spouse's benefit, might be found to violate Title VII. Since, normally, a wife is dependent on her husband's pension, a husband usually not dependent on his wifes pension, many Trustees of Funds reasonably believe that providing death benefits under a retirement plan to husbands of deceased employees, especially if they have their own source of income, is an unnecssary diversion of monies that could be used to improve benefits for employees living in retirement.

You will no doubt be told that our Social Security laws discriminate against women by allowing a widows benefit in a different manner than a spouses benefit—since women are the greatest recipients of Medicare because of their longevity, perhaps the difference of survivors benefits is justified. No legislative act, Gentlemen, will change the basic fact that physical and biological differences between men and women exist and affect all aspects of our life. The differences cannot be assimilated, altered or ignored. The male participants of the Hotel and Restaurant Employes Insurance Fund have had their "equality of rights under the law denied and abridged" by the insurance carrier of our fund. Our male member is receiving less benefit for the same contribution paid by the employer on his behalf than he would receive had the number of females covered by that Fund been less.

Any fringe benefit given by an employer is, in effect, unpaid wages. Such employer labor cost can be given either in the form of wages or fringe benefits. If the benefit must be the same for both men and women and the contribution the same (though the rate becomes higher because of female exposure) then a larger unpaid wage to the male ensues. Yet, the Equal Employment Opportunity Commission says contributions, benefits and wages must be the same. It cant be done!

Insurance companies will always consider human variables such as age, sex, physical differences in making actuarial assumptions. No Equal Rights Amendment to the Constitution will alter the fact that unless physical limitations and differences are considered, then persons do not start out equal—and if they do not start out equal, equality is a myth, unless those differences are recognized and safeguarded.

These guidelines may be unreasonable, they have not been tested in the Courts. While the Equal Employment Opportunity Commission may deal a blow to certain types of legislation, they cannot destroy or repeal laws. The Equal Rights Amendment, however, permits no negotiation or compromise no matter what the circumstance.

The wording of the Equal Rights Amendment may be simple, but its implications are enormous. Because of its enormity, a hysteria has been engendered. But hysteria is no justification for the passage of legislation. You don't satiate the appetite of some zealots by sacrificing the welfare of the vast majority of 82,000,000 American women, their families, their children, their personal safety and well-being. That's what will happen if the so-called Equal Rights Act becomes our 26th Amendment. That fact too makes it easy to show how the passage of the Equal Rights Amendment will adversely affect the women of America, the vast majority of them, thereby depriving them of their right of safety and the pursuit of happiness and denies to her the fundamental reason for her participation in a government of law.

Fifty-three years ago, a similar hysteria prevailed in this country. It too, was initiated by those who would impose their beliefs on all others. It was dramatized by Carrie Nation and the Women's Christian Temperance Union. With hatchets in hand, they descended upon this nation while her fighting men were in Europe. We ended with the infamous Volstead Act, a Constitutional Amendment. Can we ever forget our folly? It took 14 years to recall that mistake. Home-brew, gang wars, corruption and the loss of billions of dollars in lost tax revenue plus millions spent in the unsuccessful attempts at law enforcement, plus the jobs of hundreds of thousands of workers were lost.

But we suffered a far greater loss in our general disregard and disrespect of the law among all segments of our population. Clearly, America had been stampeded into an ill-considered, ill-advised action. When we woke up, we rectified it. Lest we forget, the 18th Amendment was the only Amendment that had to be repealed. If the Equal Rights Amendment becomes the 26th Amendment, I predict it will meet the same fate. Recourse to law is but a small part of the struggle for equality. The tragedy of Prohibition proved that amending our Constitution didn't change our habits, or our thirst or the people governed by its provisions.

Many of today's feminists oppose and resent protective legislation for women since they postulate that such legislation treats them as children whose lives have to be regulated by other adults. Yet the Women's Liberation groups wish to regulate the lives of other women and treat them as children telling them that the job of wife and mother is unfulfilling and unsatisfying. Should the women, so being lectured, disagree, she is immediately charged with having been brainwashed!

Feminists, assuredly, do not represent the majority of women and do not correctly relate their needs and feelings. For the most part, women who join "liberation groups" are white, middle-class and college-oriented. The most active of these women, who do the work of the organizations, are those with no or grown children. Working women, like the mothers of young children, are too busy to be liberated.

The National Organization of Women (N.O.W.) one of the most vocal supporters of the Equal Rights Amendment, claim to have about 3,000 members. They speak of the discontent of wives and mothers. They speak for a small minority when they urge passage of the Equal Rights Amendment. They do not speak for Mary Dennison of the Congress of Racial Equality who is quoted as saying "The Women's Liberation Movement is a luxury that only bored white women can afford". They do not speak for the divorced, separated or abandoned mother

when they urge passage of the Equal Rights Amendment which will weaken the husband and father obligation for child support. Divorced, separated and deserted wives struggling to support themselves and their children may find their claims to support even harder to enforce than they are right now.

The Equal Rights Amendment could create new obligations for women to support their husbands and children. Wives and mothers who are not in the labor force (and they are a substantial majority) may find they can no longer choose to stay out of the labor force. Under the Equal Rights Amendment, they might become obligated for furnishing half the family support. The right of choice for these women should be protected. For many American women, particularly for those in the lower brackets, losing that choice is a heavy and undemocratic price to pay for an illogical theory of equality.

Women's Liberation is the most misused and abused phrase in the English Language. To some, the word means—liberation from marriage—liberation from housework—liberation from bearing and rearing children—liberation from all forms of social responsibility—copping out. To others, not so.

I believe women should be a part of a social movement dedicated to reforming our social structure to permit true equality between the sexes. It should accomplish for all women, young and old, married and single, housewives and breadwinners, mothers and the childless, wives and widows; their goals and aspirations. It should improve their life, gain recognition for their double role in society and the recognition of that responsibility. It should broaden the fruits of science to lessen the drudgery of our housework and to making clothing functional, yet enhancing. It should bring peace to the world and bring our teenagers home, going to colleges or learning a trade rather than working towards expanding the draft by including women to kill and destroy. It should fight to maintain the right to stay home as a housewife and mother, if circumstances permit, and that be the preference of the individual woman. It should fight to have an economy thats free from hunger and privation that affords freedom from want and need in a society that promises every man and woman equal pay for equal work. That's the kind of liberation I'm interested in.

Not everyone agrees with me, I am sure, for there is no more unanimity of opinion among women than among men. The plight of the black woman forced to leave her children untended as she goes off to clean the home of the rich women is unbridgeable. Both, may be wives and mothers, both are women, but they have little in common to cause them to be of one opinon.

We live in a world of socially prescribed differences, of fashion prejudices, of customs relating to masculinity and femininity. To achieve equality, we must start equal by recognizing physical and biological differences. We are different, and remember, different does not mean deficient.

I heard testimony before the Judiciary sub-committee which favored passage of the Equal Rights Amendment. One witness argued that although the passage of the Equal Rights Amendment would obviously create many hardships for women, the long term benefits would outweigh the short term losses. I wondered about the cogency of such a position. I re-read the testimony. Then I began to think about the basic contention advanced. I thought about the philosophical footings to such a position. I reject such an argument for the following reasons—

1. That kind of reasoning gives cogency to the specious male admonition "you can't have your cake and eat it too". But, we are not talking about anything as transitory as cake or some object which deteriorates upon usage. We are talking about a right, that develops, grows, enlarges upon usage. That philosophy assumes that rights don't grow, that there is no place for orderly advancement and expansions of a right. That philosophy pre-supposes no orderly progression for the rights of man, the opposite has been the case. Forcing a working mother, the sole support of her family, out of work and onto ADC, because she will not neglect her children by working excessive overtime, does not make sense either for her or the taxpayer. Particularly since the Equal Rights Amendment may take 10 years to adjudicate as Congresswoman Griffiths, herself, considers a likely possibility (as quoted in the Detroit News). This is not like giving 18 year olds the right to vote—for no one suffers in extending Democracy. The adoption of the Equal Rights Amendment will not extend Democracy and will create suffering.

2. That kind of reasoning puts forth the idea—two birds in the bush is worth one bird in the hand—though we know those two birds, one's a vulture and the other a pterodactyl. The lack of reasoning is like saying that a mother of four children, who has difficulty collecting her child support payment from her divorced husband, will be happy to have his financial responsibility divided equally with hers. All that kind of immediate so-called equality to be theoretically on the same level as her husband and hope that some fine day she will be able to work unlimited overtime.

3. What type of philosophy advanced by the Business and Professional Women can best be characterized by the expression, let's you and him fight or better still, as working women, stand in the downpour to say every cloud has a silver lining. That's what Noah heard.

No gentlemen, women receive nothing, absolutely nothing, from the Equal Rights Amendment except a vague male guilt freeing generality about "Pie in the sky, bye and bye"—What we lose may not be all we hope to get, but it's the fruit of our 100 years effort and we have it now today, we need it now today, and we don't propose giving it up today or in the immediate or even distant future.

I have attempted to convey to you my opposition to the Equal Rights Amendment as a citizen, woman, widow, mother, worker and union official representing thousands of women (and men). I have tried to prove that women (and men, as well) will suffer adversely, socially, politically and economically. I have endeavored to prove to you that the action before you is based upon an undemocratic concept contrary to the philosophy embodied in our Constitution.

I urge you oppose S.J. Res. 61. The legislative process of enacting "specific bills for specific ills" must be invoked to correct the inequities in our society today.

The differences between men and women cannot be changed by an Act of Congress—or by a Constitutional Amendment.

Mr. ERVIN. While this amendment was pending before the 91st Congress, the representatives of many organizations representing working women and many individuals made a statement to the 91st Congress in opposition to this amendment. The statement was entitled "The 'Equal Rights' Amendment . . . An attractive slogan . . . but is it good law?"

Among those who endorsed the statement were the following:

Chauncey Alexander, Executive Director, National Association of Social Workers.

Joseph A. Beirne, President, Communications Workers of America.

Margaret Berry, Executive Director, National Federation of Settlements, and Neighborhood Centers.

Mary E. Callahan, Former Member, President's Commission on the Status of Women Citizens' Advisory Council on the Status of Women.

Cesar Chavez, Director, United Farm Workers Organizing Committee.

Patrick E. Gorman, Secretary-Treasurer, Amalgamated Meat Cutters and Butcher Workmen.

Dorothy Height, President, National Council of Negro Women.

Dolores Huerta, Vice President, United Farm Workers Organizing Committee.

Paul Jennings, President, International Union of Electrical Radio and Machine Workers.

Mary Dublin Keyserling, Former Director, Women's Bureau—U.S. Department of Labor.

Margaret Mealey, Executive Director, National Council of Catholic Women.

Ruth Miller, Former Chairman, California Advisory Commission on the Status of Women.

Sarah Newman, General Secretary, National Consumers League.

William Pollock, President, Textile Workers Union of America.

Jacob S. Potofsky, President, Amalgamated Clothing Workers of America.

Louis Stulberg, President, International Ladies' Garment Workers Union.

Mary E. Switzer, Former Administrator, Social and Rehabilitation Service, U.S. Department of Health, Education, and Welfare.

Dr. Cynthia Wedel, Former Member, President's Commission on the Status of Women.

Elizabeth Wickenden, Professor of Urban Studies, City University of New York; Former Member Citizens' Advisory Council on the Status of Women.

Myra Wolfgang, Vice President, Hotel and Restaurant Employees' and Bartenders' International Union.

This statement contains three separate assertions in addition to a few thoughtful questions which it asks and answers. The statement warns American women in these words:

Don't buy a gold brick!

Here is what the statement says under that heading:

America's women are increasingly expert consumers.

They've learned the hard way that you can't always trust the language on the label . . . or extravagant advertising claims.

That's true for legislation, too.

The Equal Rights Amendment to the Constitution, for instance, sounds great . . . like the end of sex discrimination.

Sounds easy. . . . But most sex discrimination is a matter of private practice, not of public law, and will not be affected by the Amendment.

And laws that treat women differently are not necessarily "discriminatory" or unfair.

That's why many women's organizations, trade unions and individuals with long experience in human and industrial relations problems, urge rejection of the Equal Rights Amendment.

Let's keep the good laws we've won and see that they're enforced. Let's repeal or amend the bad laws . . . . and go on from there to achieve real equality for every American.

I have said that the statement contains two general warnings in addition to a few thoughtful questions and their answers. One of these warnings is entitled "Some Real Worries." It states this under that heading:

Nobody knows for sure what results the Equal Rights Amendment would bring. But here are some "real worries" you ought to think about:

Many state laws enacted to prevent harsh industrial or commercial exploitation of

working women are likely to go out the window—whether women want them to or not. The "equality" arguments can be turned right around by powerful employer interests who don't want *any* of their workers protected by labor laws—either men *or* women. If the courts don't throw out the women's labor laws right away, the legislatures can be pressured into quick repeal.

Divorced, separated, and deserted wives struggling to support themselves and their children through whatever work they can get may find their claims to support from the father even harder to enforce than they do right now.

For many American women, particularly those in the lower income brackets, that's a heavy price to pay for a theory of equality.

Wives and mothers who are not in the labor force—and they are a substantial majority—may find they can no longer choose to stay at home to care for their families.

Under the Equal Rights Amendment, they may become obligated for furnishing half the family support. The right of choice for these women should be protected.

I digress from the reading of the statement to say that I agree with that last statement, that the right of choice for these women should be protected, and that is precisely what I am trying to do in pointing out the hazards which the equal rights amendment poses for the social structure of America, and in offering amendments to preserve the protections and exemptions which Federal and State laws now give to women who work in fields which are not entirely intellectual in nature.

This statement, made on behalf of organizations representing the working women of America and many individuals such as Mrs. Mary Dublin Keyserling poses this general question:

What does equality mean under the Equal Rights amendment?

Then it asks three thoughtful questions. Moreover, it gives answers to those three thoughtful questions.

The first question is this:

Does the Equal Rights amendment create new rights for women?

The answer is:

No, it does not. In fact, the amendment . . .

Does not require equal pay for equal work.

Does not require promotion of women to better or "decision-making" jobs.

Does not provide free 24-hour community-controlled children's day care centers for working mothers.

Does not elect more women to public office.

Does not abolish abortion laws or make available safe birth control devices.

Does not convince men they should help with the housework.

and, furthermore, does not put a woman astronaut into space!

The second of the thoughtful questions which the statement asks and answers is this:

Could the Equal Rights amendment destroy some important women's rights?

The answer:

Yes, it could destroy rights and cause new problems . . . by

Creating new obligations for women to support their husbands and children.

Weakening men's duty to support their wives and children.

Wiping out laws fixing such benefits as minimum wages, maximum hours, and safety standards for women, simply because many of these laws don't apply to men.

Drafting women into military service.

Weakening the legal presumption that a woman should keep custody of her children and should receive financial support in the event of a divorce.

Endangering the tax-exempt status of nonprofit "women only" institutions, such as the YWCA and Girl Scouts.

Destroying laws that require separate rest rooms and dressing rooms for women workers.

Mr. President, I would like to emphasize that these representatives of working women and these individuals who joined in this statement stated that the equal rights amendment could destroy the laws that require separate restrooms and dressing rooms for women workers. Now, some of the proponents of the amendment claim that is not so. Well, these representatives of the working women and these individuals interested in their behalf think that it is so, and I agree with them. But whether they are right or whether I am right, or whether the proponents of this proposal are right, an abundance of caution on this point ought to inspire the proponents of this measure to accept an amendment which I shall offer later expressly providing that this article does not invalidate any laws of the United States or any State which secure privacy to men and women or boys and girls.

The proponents of this amendment are the first people I have encountered in my public life—which began when I was just a small boy in the North Carolina Legislature, and which has extended since that time to 18 years of service in the U.S. Senate—who are opposed to any amendment which would clarify and make certain what the proposal they are advocating would do.

The third thoughtful question asked by this statement is this:

Is this constitutional amendment really needed to achieve women's rights?

The answer:

No.

The answer is "No" because the statement asserts what the greatest legal luminaries in the United States have testified to be true—namely, that the Constitution already protects the rights of women, particularly under the fifth and 14th amendments.

The statement says that "no" is the answer for the additional reason that unfair or discriminatory laws can be repealed by legislatures or challenged in the courts under these amendments. That has already been done successfully in many cases.

Then it says that the answer to the third question is "no" for an additional reason—namely, that new rights and freedoms for women will come from enactment of new laws and the effective enforcement of existing ones, not from a new constitutional amendment.

What are the protections which existing laws throw around working women and which would be abolished by the equal rights amendment?

They are such laws as provide that an employer must furnish separate restrooms and separate dressing rooms for men and women employees.

They are laws which provide for minimum wages for women in States which have no other laws of that character for the protection of the economic interests of working women.

They are laws which provide maximum hours of employment for women who are obligated not only to earn livelihoods for themselves and their families but also to discharge the duties of mothers in their homes.

They are laws which place upon husbands the primary responsibility for furnishing reasonable support of wives and children.

They are laws which entitle a woman who is divorced by her husband to call upon her husband for alimony, not only to assist in her support but also in the support of the children which he has begotten upon her body.

I respectfully submit that in passing upon the amendment which is now pending before the Senate, Senators ought to pay heed to the representatives of the women and to the women who have studied this problem and to the women whose work is not entirely intellectual, rather than to a few business and professional women who already are absolutely free under the law to compete with men and who are not confronted by any of the problems which confront working women.

This equal rights amendment would practically destroy the social structure of America.

On previous occasions during this debate, I have referred to the article written by Prof. Thomas Emerson and three young Yale women law graduates.

The PRESIDING OFFICER. The 60 minutes of the Senator have expired.

Mr. ERVIN. I yield such additional time as I may use on the bill.

I am constrained to deduce that a very distinguished member of the medical faculty at Yale University read that article. After he did so, he wrote a letter to the editor of the New York Times which bore the heading "Rights Amendment: Is It Constructive?" This is the letter:

If family stability plays an important role in the well-being of our nation, it is hard to envision the Equal Rights amendment just passed by the House of Representatives as a constructive act. The bill seems not to have been discussed adequately or maturely but rather shouted through under pressure from a relatively small band of zealots. It seems to me that the removal of legal responsibility from a man for supporting a family, giving the family a name and protecting his daughters from the sort of influences the U.S. Army might have in store for them before marriage is likely to have some effect on the manner in which men relate to their wives and children and vice versa; those traditional ties will be weakened.

One must agree with women's liberation groups that the liberating effect of Equal Rights will apply to men as well as to women. What they are both being liberated from is nothing less than the restrictions of traditional roles in a family structure. One has the right, indeed the duty, to ask, "Is this good?" Marriage has received some rather bad publicity of late; it is considered a breeding ground of neurosis, a prelude to divorce in more than 30 of 100 cases and a burden to the free spirit seeking self-fulfillment. Day care, communal living arrangements and release of women and men from domestic duties are the modern vogue.

Despite this, and supported by my ob-

servations as a physician, I am convinced that that solid, happy family life is the foundation of mental health and happiness. Basic to a healthy family is the concept of role: husband and father, wife and mother, son or daughter. With the restrictions and discipline which stem from these roles, allowing for individual variations, one has the cement which binds a family for life.

Perhaps I am unduly cynical about the ability of people liberated from their responsibilities to make wise choices concerning the path to happiness and contentment; but I would predict that the Equal Rights amendment and many of the other goals of its proponents will bring social disruption, unhappiness and increasing rates of divorce and desertion. Weakening of family ties may also lead to increased rates of alcoholism, suicide and, possibly, sexual deviation. Conceivably this is merely a theoretical parade of horribles. There are genuine questions which should be asked and discussed before our Constitution is amended for the purpose of producing social change. There is no evidence that such deliberations have been made or planned. Is the Equal Rights amendment to be the Tonkin Gulf Resolution of the American social structure?

Mr. President, that is the question posed by Jonathan H. Pincus, associate professor, Neurology, Yale University School of Medicine.

As I say, I deduce that he wrote the letter to the Editor of the New York Times after he had read the article in the Yale Law Journal which depicted the unhappy consequences which the equal rights amendment will produce in our society.

Mr. President, I yield the floor.

Mr. BAYH. Mr. President, I yield myself such time as I may require.

The amendment of my distinguished friend and colleague from North Carolina (Mr. ERVIN) which reads:

"This article shall not impair the validity, however, of any laws of the United States or any State which extend protections or exemptions to women,"

Is a well-intentioned addition to the Equal Rights Amendment.

I know that the Senator from North Carolina does not desire to discriminate against women, that he does desire to provide for their special protection. But the unfortunate fact of life is that many of these well-intentioned amendments which were originally designed in a bygone era to provide special protection for women now, indeed, instead, impose special penalties.

The best example of this is a statute which existed in the State of Michigan which that State thought would be beneficial to its women, which prohibited them from serving as bartenders, feeling that this would protect them from some of the atmosphere that might exist in a place where bartenders labor. Well, the practical effect of this was that women were denied the higher paying jobs as bartenders behind the bar, where they are protected by the hardware of the bar from whatever idiosyncrasies might exist among those who frequent bars; and yet the State law did not really provide for the protection of women as it denied the employment, insofar as serving alcoholic beverages was concerned, on the other side of the bar where the customers were in much closer proximity to the frail young things serving the alcoholic beverages.

The discriminatory impact of this legislation is obvious. The same is true of the 40-hour limitation, the weight limitation laws, and other similar laws. These are discussed in detail on pages 8 and 9 of the Senate committee report. We quote there the guidelines of the Equal Employment Opportunities Commission relative to sex discrimination:

The Commission has found that such laws and regulations do not take into account the capacities, preferences and abilities of individual females and tend to discriminate rather than protect. Child support laws and alimony laws, and pensions for police widows, and the like will simply become non-sex discriminatory after the amendment. Individual restrooms are an entirely different matter—the justification for which is the right to privacy.

I have discussed these points at length earlier in the day, so that I see no reason further to impose my temperate logic on my colleagues. Therefore, Mr. President, I yield back the remainder of my time.

Mr. ERVIN. Mr. President, I would suggest to the distinguished Senator from Indiana, inasmuch as it is now 5 minutes after 5 p.m., that we enter into a unanimous-consent agreement at this time to vote on this particular amendment, without further debate, immediately after the end of the morning hour tomorrow.

The PRESIDING OFFICER (Mr. BENTSEN). Is there objection to the request of the Senator from North Carolina?

Mr. BAYH. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

All time having been yielded back, the question is on agreeing to the amendment No. 1067 of the Senator from North Carolina (Mr. ERVIN).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana, (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Georgia (Mr. TALMADGE), are necessarily absent.

I further announce that, if present and voting, the Senator from Alabama (Mr. SPARKMAN), the Senator from Maine (Mr. MUSKIE), the Senator from Washington (Mr. JACKSON), and the Senator from Minnesota (Mr. HUMPHREY), would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Delaware (Mr. BOGGS), the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER) and the Senator from New York (Mr. JAVITS) are necessarily absent.

The Senator from Colorado (Mr. ALLOTT) is detained on official business, and if present and voting, would vote "nay."

If present and voting, the Senator from Delaware (Mr. BOGGS) and the Senator from Massachusetts (Mr. BROOKE) would each vote "nay."

The result was announced—yeas 11, nays 75, as follows:

[No. 115 Leg.]

YEAS—11

Bennett	Eastland	Hollings
Buckley	Ervin	Long
Byrd, Va.	Fannin	Stennis
Cooper	Hansen	

NAYS—75

Aiken	Fulbright	Packwood
Allen	Gambrell	Pastore
Anderson	Gravel	Pearson
Baker	Griffin	Pell
Bayh	Gurney	Percy
Beall	Harris	Proxmire
Bellmon	Hart	Randolph
Bentsen	Hatfield	Ribicoff
Bible	Hruska	Roth
Brock	Hughes	Saxbe
Burdick	Inouye	Schweiker
Byrd, W. Va.	Jordan, N.C.	Scott
Cannon	Jordan, Idaho	Smith
Case	Kennedy	Spong
Chiles	Magnuson	Stafford
Church	Mansfield	Stevens
Cook	Mathias	Stevenson
Cotton	McGee	Symington
Cranston	McGovern	Taft
Curtis	Metcalf	Thurmond
Dole	Miller	Tower
Dominick	Mondale	Tunney
Eagleton	Montoya	Weicker
Ellender	Moss	Williams
Fong	Nelson	Young

NOT VOTING—14

Allott	Humphrey	Mundt
Boggs	Jackson	Muskie
Brooke	Javits	Sparkman
Goldwater	McClellan	Talmadge
Hartke	McIntyre	

So Mr. ERVIN's amendment (No. 1067) was rejected.

Mr. ALLOTT subsequently said: Mr. President, on the preceding vote, which I missed by about 2 minutes, I wish I had one of those great valid excuses other people have that their bells did not ring or that their lights did not go on. As a matter of fact, I was detained on official business in connection with some constituents and the Secretary of Agriculture.

I would like the RECORD to show that if I had voted I would have voted "nay."

The PRESIDING OFFICER. The RECORD will so show.

The Senate will be in order. The Senate will not proceed until the Senate is in order. Senators will please be seated or retiré to the cloakroom. The Senate will be in order.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that no further time, on the bill or any amendment to be offered today, be charged against either side.

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

Mr. BROCK. Mr. President, I support this joint resolution, for I believe it to be in the interest of the future, a future in which male and female share in the responsibility of extending the challenge of freedom to our children.

For those who propose a series of "clarifying" amendments to this resolution, I would point out that elasticity is the beauty of our Constitution. It has

made this a viable document equally in the 20th century as in the 18th. And it is this same resiliency which will make our amended Constitution viable as we enter on the 21st century. Thus, I can endorse and support no amendment to this resolution, for none are needed. The statement of commitment to a principle is clear and forthright.

Amendments to the Constitution are to be interpreted by men of the present and all effort should be made to retain interpretive freedom while maintaining the concept of justice and equity.

In sum, a constitutional amendment should be a broad statement of policy. The policy we seek would guarantee equality of rights and responsibilities without regard to differences of sex. There can be no legal discrimination in a truly free society—on the basis of sex or any other condition. This is the thrust of the proposed constitutional amendment, and I shall vote for it as it is written, without amendment.

Mr. ROTH. Mr. President, in 1969, I was a sponsor of the equal rights amendment while I was a Member of the House of Representatives. I am a cosponsor of the resolution we are considering today. The equal rights amendment would write into the Constitution the principle of legal equality for American citizens of both sexes. Its passage would demonstrate, more effectively than any other action, a national commitment to legal justice for our female citizens.

Mr. President, it is time that the Senate of the United States demonstrates that it has the courage and conviction to pass this legislation.

The equal rights amendment has been introduced in every Congress since 1923. The Senate has passed the amendment twice, each time adding a nullifying rider to the bill. The House of Representatives first passed the measure in the 91st Congress, but the Senate failed to act upon the bill. Today we have another chance. The House passed the equal rights amendment, unamended, last October 14. It is up to us to clear the measure in its original form and send it to the States for ratification.

Women have proved their capabilities in all fields of enterprise. I have personal experience in this. My wife is a practising attorney, and in my biased judgment, a very good one. I have on my staff female executive, legislative, and research assistants, as well as very competent secretaries. They have all shown great abilities in these positions. For too long, women have been denied equal access to education, training, employment, union membership, and promotion because of our fallacious notions about what a woman "should" do and what she "should" be. While women today are lawyers, stockbrokers, professors, doctors, and Members of Congress, in numbers they are not adequately represented and this indicates the problems they face. Those who have gained success have done so by overcoming obstacles not placed in the career paths of their male colleagues.

The scars of sex discrimination will take long to heal, and the problems will take long to correct. Passed from generation to generation, notions of "women's place," "men's" and "women's" work, and the limited choices and capabilities ascribed to women will not be eliminated totally with this amendment to the Constitution. But the women of this Nation have waited too long for the recognition that is due them as human beings with potential that has long been thwarted by our laws and prejudices.

I am proud that my State of Delaware was one of the first to abrogate all discriminatory legislation in this field. We in the Senate are asked to do nothing more than to correct an untenable situation—to guarantee to the women of our Nation the legal rights that should be their birthright as American citizens.

Mr. HANSEN. Mr. President, today the Senate is considering a most important measure, an amendment to the Constitution to provide equal rights for women. The subject of this legislation insures that it deserves and will receive the earnest consideration of this body. The fact that it is an amendment to the Constitution, the supreme law of the land, increases the pressures on the Senate to act with wisdom.

Coming from the equality State of Wyoming is a source of pride, and gives its citizens a heritage of equality to uphold. When Wyoming Territory was organized in 1860, it became the first government to grant women the right to vote. Esther Morris, whose statute stands in the Capitol, is given great credit for helping achieve this "first" for women, and served as the first woman justice of the peace. Wyoming's Gov. Nellie Tayloe Ross served as the Nation's first woman Governor and the longtime Director of the U.S. Mint. She now resides in Washington, D.C., and her vitality and interest at 95 reflects the great contribution which women have made, and will make to our great Nation.

Wyoming's action in 1869 set off a chain reaction which led to this Nation's commitment to equal rights for women. Today we are being challenged to renew that commitment in the form of an amendment to the Constitution. I share the interest of all in guaranteeing equal rights to all citizens of the United States.

I strongly support the goals of those who have worked so long and diligently for consideration and enactment of the bill now before us. I believe in equal pay for women. I believe in equal job opportunities for women. Women should enjoy the same legal rights as men.

However, our commitment to equal rights for women must not take a doctrinaire "unisex" approach. The simplistic approach taken by the proposed constitutional amendment ignores victories of women's rightists in the past who fought so long and hard to insure that women would not be treated as second class citizens.

Many differentiations are made throughout our society between men and women. Some of these may be valid and some invalid. However, before we throw them all out at once, we should look at the reasons behind their existence, and looking at them one at a time, decide if the specific distinction should be abandoned.

All citizens should enjoy equal rights and therefore the amendment, as proposed, should have the support of all. But on closer look it is obvious that the amendment has a much broader impact than most people understand or expect. Do individual citizens, both male and female, support abandonment of alimony payments, repeal of the presumption of a mother's custody of her child in divorce proceedings, and repeal of criminal and civil laws to protect women? Do young women expect and wish to be eligible for the military draft, especially at a time when young men are expressing their dissatisfaction with the draft system? Would it maximize our national security to have equal numbers of men and women not only in the Armed Forces, but on the front lines in time of battle? Anything less than this would encourage a challenge under this amendment by men who would charge discrimination. What happens when a young women is drafted and her young husband who has a higher number, is not?

These are all questions of great importance. They should be thoroughly debated and decided with a full understanding of the consequences. We must look at this question realistically and act to insure that women are given equal opportunity and equal rights without losing those rights and privileges which were won so long ago.

Mr. KENNEDY. I am pleased to give my strong support to House Joint Resolution 208, the equal rights amendment. I would especially like to commend Senator BAYH for his extensive efforts on behalf of this measure, not only now but in every recent Congress. I hope to see it passed this week without change by the Senate, and ratified promptly by the States as the 27th amendment to the Constitution.

The purpose of the equal rights amendment is to insure equality for men and women under the law, and thereby to end generations of discriminaiton in the area of sex.

The amendment is simple in language, but grand in scope. It provides:

> Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Once the amendment is ratified, sex will cease to be a factor with regard to determining legal rights. At a single stroke, all laws whose burden falls solely on one sex will become unconstitutional.

We have all heard the statistics: women are unemployed at double the rate of men—98 percent of jobs paying over $15,000 are held by men. Male college graduates can expect to go to work for $15,000, but women graduates start at $7,000.

Although there have been small advances over the years toward equality for women, most of the progress has amounted to chipping away at a much larger problem. There is overwhelming evidence that women are discriminated against in all stratas of society—economically, socially, and culturally. Some States have already made efforts to balance the scale through legislation that revises outmoded discriminatory laws.

Three States have actually passed constitutional provisions forbidding discrimination by sex. This, however, is not enough—sex discrimination remains the general rule in most States. It continues to force women into roles below their intellectual and physical capabilities.

One of the more obvious areas of discrimination today is that of educational and professional opportunities. While approximately 75 percent of the college students in this country attend federally subsidized institutions of higher education, discriminatory practices against women are the general rule in far too many of them. In large measure, our colleges and universities have a great responsibility in training their students for future careers and other opportunities. And so, their discriminatory practices are bound to have undesirable consequences on the opportunities of their graduates. The colleges and universities help to set the tone for the wider society, because in deciding against accepting female students, in setting a quota for certain areas of study, they leave the business world free to reject the few women who actually break through the "males only" barrier.

Graduate schools are even more serious arenas of discrimination—despite the fact that female undergraduate academic achievements tend to surpass those of males. For example, as stated in the Senate Committee report, the number of women applying for admission to U.S. medical schools increased by more than 300 percent between 1929–30 and 1965–66, while male applicants increased by only 29 percent. Yet, as the report makes clear, the percentage of women applicants who were accepted declined during the same period.

It is small wonder, then, that women are discriminated against in employment. If our colleges do not encourage women to enter the professional and semiprofessional fields, can we question why they are discriminated against in all areas of employment, including even the least skilled jobs?

Women are also clearly discriminated against under so-called "protective" laws. Such legislation, much of it passed shortly after the turn of the century, is out-dated today, largely because of the successful efforts of labor organizations to secure the enactment of labor laws protecting the health and safety of workers for reasons independent of their sex. But the protective legislation based on sex is far more insidious. It invites employers, when considering the promotion of women to jobs that involve longer hours and higher pay, to promote men instead, solely on the basis of sex.

On many other fronts, our existing laws work against women. At present, although the 14th amendment supposedly requires that both sexes receive the equal protection of the laws, the burden of going to court to prove sex discrimination is so heavy that many are unwilling to run the gauntlet of the time and expense required for litigation. In the field of family law—divorce, alimony, and child care—there are obvious changes needed to equalize the treatment given to men and women. The ERA will serve to wipe these glaring inequities off the books, and end the years of discrimination that women have endured.

The demand for equal rights for women is not a new cause. It began in earnest almost 50 years ago, when the first equal rights amendment was submitted to Congress. Unfortunately, it had taken Congress many years before that to grant women the right to vote. Now at last the era of glacial progress toward equal rights is over, and Congress is about to take a giant step toward making those rights a modern reality.

I had originally thought that a constitutional amendment was not necessary to achieve the goals of the Equal Rights Amendment—that we could accomplish all the desired goals by other means. Recently, however, two of the most promising avenues have proved to be blind alleys, and the need for a constitutional amendment to reach the goal is clear.

In recent years, I have worked with many others in Congress to strengthen the enforcement of powers of the Equal Employment Opportunities Commission, which enforces the sex discrimination prohibition of the Civil Rights Act of 1964. Unfortunately, in recent weeks, our efforts were unsuccessful in both the Senate and the House.

I also was disappointed with the narrowness of the decision in the recent Supreme Court decision in Reed against Reed, applying the 14th amendment to the rights of women. It was my hope that this decision would be broad enough to end much of the discrimination against women. Although it did invalidate a discriminatory State law, the decision handed down did so in such a way as to leave the burden of proof on plaintiffs in individual cases to show that they had been the victims of discrimination. The precedent was too weak. For that reason, it simply became another argument reinforcing the need for a constitutional amendment.

For these reasons, I support the Equal Rights Amendment.

The objections to the resolution now before us have no merit. I have already discussed the issue of "protective" legislation. Such measures had their roots to a large extent in the sweatshop days at the turn of the century. Outmoded today, they hold a woman back from promotions to a higher position and higher salary.

Some say that women should not be drafted. They recoil at the thought of an 18-year-old woman being drafted for combat. Once in the service, however, both sexes should—and will, under the new amendment—be classified for various duties by their capabilities, according to their ability to serve in a given area and to the needs of the service. For example, a military manpower study reported that during World War II approximately half of the positions occupied by men could just have easily been occupied by women.

We should not lose sight, either, of the educational benefits, the medical care—both in service and in later access to veterans' hospitals—the job preferences and leadership opportunities offered by military service. Clearly, women should not be excluded from this role.

And, far from doing away with the child support laws, as some detractors fear, the equal rights amendment will serve to equalize them. It will give responsibility in caring for children to the parent most qualified, not solely to the mother in every case.

Finally, the equal rights amendment is not limited to women, although it deals in large part with legislation that is discriminatory against them. The equal rights amendment will balance laws that favor either sex. But, because the amendment applies only to governmental practices and State laws, however, it is not the whole or final answer to the problem of sex discrimination in our society. We must continue to work diligently to eliminate discriminatory employment practices in private industry, in education, and every other area. In the end, the equal rights amendment will mean equal rights for all.

AMENDMENT NO. 1068

Mr. ERVIN. Mr. President, I call up Amendment No. 1068.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

At the end of section 1 add the following sentence: "This article shall not impair the validity, however, of any laws of the United States or any State which extend protections or exemptions to wives, mothers, or widows.".

PROGRAM

Mr. BYRD of West Virginia. Mr. President, for the information of the Senate there will be no more rollcall votes today. It is anticipated that there will be several rollcall votes tomorrow on amendments. It is hoped that the time may be reduced for consideration of amendments tomorrow. It is also hoped that final action will occur on the pending constitutional amendment tomorrow. That, of course, will necessitate a rollcall vote.

AMENDMENT OF MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962

Mr. NELSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3054.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 3054) to amend the Manpower Development and Training Act of 1962 which was to strike out all after the enacting clause, and insert:

That section 310 of the Manpower Development and Training Act of 1962 (42 U.S.C. 2620) is amended by striking out "1972" both times it appears and inserting in lieu thereof "1973".

Mr. NELSON. Mr. President, I move that the Senate disagree to the amendment of the House on S. 3054, agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon; and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. NELSON, Mr. KENNEDY, Mr. MONDALE, Mr. CRANSTON, Mr. HUGHES, Mr. STEVENSON, Mr.

RANDOLPH, Mr. TAFT, Mr. JAVITS, Mr. SCHWEIKER, Mr. DOMINICK, and Mr. BEALL conferees on the part of the Senate.

AMENDMENT OF UNIFORM TIME ACT

Mr. BYRD of West Virginia. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 904.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 904) to amend the Uniform Time Act to allow an option in the adoption of advanced time in certain cases which was to strike out all after the enacting clause, and insert:

That section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a) is amended by striking out all after the semicolon and inserting the following in place thereof: "however, (1) any State that lies entirely within one time zone may by law exempt itself from the provisions of this subsection providing for the advancement of time, but only if that law provides that the entire State (including all political subdivisions thereof) shall observe the standard time otherwise applicable during that period, and (2) any State with parts thereof in more than one time zone may by law exempt either the entire State as provided in (1) or may exempt the entire area of the State lying within any time zone."

Mr. BYRD of West Virginia. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

ORDER FOR ADJOURNMENT TO 9:30 A.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 9:30 a.m. tomorrow.

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

ORDER FOR RECOGNITION OF SENATOR BUCKLEY TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of the remarks by the Senator from Delaware (Mr. ROTH) tomorrow, the Senator from New York (Mr. BUCKLEY) be recognized for not to exceed 15 minutes.

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

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL THURSDAY, MARCH 23, AT 9:30 A.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, it stand in adjournment until 9:30 a.m. on Thursday.

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

ORDER FOR RECOGNITION OF SENATORS GRAVEL AND MONDALE ON THURSDAY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Thursday after the two leaders have been recognized under the standing order, the following Senators be recognized for 15 minutes, in the order stated: Senator GRAVEL and Senator MONDALE.

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

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON THURSDAY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of all 15-minute unanimous consent orders on Thursday there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes each.

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

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, before moving to adjourn, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the Senate will convene at 9:30 a.m. tomorrow, and after the two leaders have been recognized, the distinguished Senator from Delaware (Mr. ROTH) will be recognized for not to exceed 15 minutes, after which the distinguished Senator from New York (Mr. BUCKLEY) will be recognized for not to exceed 15 minutes.

There will then ensue 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 Chair will lay before the Senate the unfinished business. The pending question will be on the adoption of the amendment, No. 1068, by the distinguished Senator from North Carolina (Mr. ERVIN).

There will be rollcall votes on amendments tomorrow, and it is anticipated that the time limitation of 2 hours, under the agreement, on amendments will not be fully used and that the time may be reduced on each amendment.

There will be a rollcall vote on final passage of the joint resolution. It is anticipated and hoped that that final vote will come sometime tomorrow afternoon, although perhaps late.

ADJOURNMENT UNTIL 9:30 A.M.

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 9:30 a.m. tomorrow.

The motion was agreed to; and at 5:34 p.m. the Senate adjourned until tomorrow, Wednesday, March 22, 1972, at 9:30 a.m.

EXTENSIONS OF REMARKS

SURFACE MINING NEEDS ADVANCED TECHNOLOGY THROUGH RESEARCH, SENATOR MARLOW COOK ASSERTS IN APPROPRIATIONS STATEMENT

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 21, 1972

Mr. RANDOLPH. Mr. President, our able colleague from Kentucky (Mr. COOK) cogently and forthrightly addressed the subject of the need to expand technology as relates to the surface mining of coal when he appeared March 16, 1972, as a witness during hearings by the Interior Subcommittee of the Committee on Appropriations.

Pointing out that almost half of the coal roducped today is surface mined, the Senator from Kentucky asserted that:

There is just no way in which we can declare a moratorium on surface mining and still meet the demands for this vital energy producing resource.

Even though, as he said:

Surface mining unfortunately has undesirable side effects.

Senator COOK added—and I agree with him—that we must do something about these "undesirable side effects," and I associate myself with his appropriately expressed view that:

The solution to our problem does not lie in moratoriums but, rather, in realistic and effective programs designed to place measures of control on mining operations and to reclaim that land which has been and is being surface mined. For these programs to be effective, we must develop advanced technology and this development will only be realized when we conduct adequate research in mining operations and reclamation.

The junior Senator from Kentucky then made what I consider to be a strong and effective case for Congress taking the lead in providing for "this research to develop this technology." I commend Senator COOK for his well-reasoned arguments and express the hope that there will be appropriations to finance the objectives for which he argued. He has my support.