crimes connected with the Watergate matter; to the Committee on the Judiciary.

By Mr. WYMAN:

H. Res. 387. Resolution expressing the sense of the House of Representatives that a bipartisan study group be established to consider the institution of a Federal college for ombudsman training; to the Committee on Education and Labor.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

190. By the SPEAKER: A memorial of the House of Delegates of the State of Maryland, relative to funding of certain higher education programs; to the Committee on Appropriations.

191. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to peacetime utilization of appropriations, installations and persons released from defense-related employment; to the Committee on Education and Labor.

192. Also, memorial of the Legislature of the State of Utah, relative to child labor laws; to the Committee on Education and Labor.

193. Also, memorial of the House of Representatives of the State of Arkansas, relative to the development of the Big Clifty public use area on Beaver Lake, Ark.; to the Committee on Interior and Insular Affairs.

194. Also, memorial of the Legislature of the Territory of Guam, relative to the appointment of a representative to negotiate the use of Sella Bay for an ammunition wharf; to the Committee on Interior and Insular Affairs.

195. Also, memorial of the Legislature of the Territory of the Virgin Islands, relative to transfer of the ownership and control of Water Island to the Virgin Islands; to the Committee on Interior and Insular Affairs.

196. Also, memorial of the Legislature of the State of Indiana, relative to "no-fault" insurance; to the Committee on Interstate and Foreign Commerce.

197. Also, memorial of the Senate of the State of Maryland, relative to amending the Constitution of the United States to restore prayer in public schools; to the Committee on the Judiciary.

198. Also, memorial of the Legislature of the State of Oklahoma, requesting Congress to call a convention for the purpose of proposing an amendment to the Constitution of the United States concerning the assignment of students to public schools on the basis of race, religion, color, or national origin; to the Committee on the Judiciary.

199. Also, memorial of the Legislature of the State of Utah, relative to abortion; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mrs. MINK:

H.R. 7583. A bill for the relief of Juanito Segismundo; to the Committee on the Judiciary.

By Mr. BOB WILSON:

H.R. 7584. A bill to extend the term of design patent No. 21,053, dated September 22, 1891, for a badge, granted to George Brown Goode, and assigned to the National Society, Daughters of the American Revolution; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

205. By the SPEAKER: Petition of the Palau District Legislature, Western Caroline Islands, Trust Territory of the Pacific Islands, relative to the settlement of Micronesian war claims; to the Committee on Foreign Affairs.

206. Also, petition of John Sitek, Hamtramck, Mich., and others, relative to protection for law enforcement officers against nuisance suits; to the Committee on the Judiciary.

207. Also, petition of Norman L. Birl, Jr., Rosharon, Tex., relative to redress of grievances; to the Committee on the Judiciary.

208. Also, petition of the common council, Appleton, Wis., relative to environmental protection legislation; to the Committee on Merchant Marine and Fisheries.

209. Also, petition of the city council, Elizabeth, N.J., relative to tax credits for tuition paid for elementary or secondary education of dependents; to the Committee on Ways and Means.

SENATE—*Monday, May 7, 1973*

The Senate met at 12 o'clock noon 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, eternal and unchangeable, we pray for this Nation, its people, and its institutions in this time of anguish. If we have forsaken Thee, do not forsake us. If we have sinned, forgive us. If we have been mistaken, correct us. Spare us from judgments which only Thou canst make. May we forgive one another before we claim Thy forgiveness. May Thy grace be sufficient for all our needs.

We beseech Thee, O Lord, to lift the efforts of this body into the higher reaches of Thy kingdom, guiding and strengthening each one in the discharge of his daily duties.

We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE
Washington, D.C. May 7, 1973.

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.

JAMES O. EASTLAND,
President pro tempore.

Mr. ROBERT C. BYRD thereupon took the chair as Acting President pro tempore.

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT—ENROLLED JOINT RESOLUTIONS SIGNED

Under authority of the order of the Senate of May 3, 1973, the Secretary of the Senate, on May 3, 1973, received the following message from the House of Representatives:

That the Speaker had affixed his signature to the following enrolled joint resolutions:

H.J. Res. 393. Joint resolution to amend the Education Amendments of 1972 to extend the authorization of the National Commission on the Financing of Postsecondary Education and the period within which it must make its final report; and

S.J. Res. 51. Joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning May 6, 1973, as "National Historic Preservation Week."

The enrolled joint resolutions were subsequently signed on May 3, 1973, by the President pro tempore.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILL AND JOINT RESOLUTION

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries, and he announced that the President had approved and signed the following act and joint resolution:

On May 3, 1973:

S. 50. An act to strengthen and improve the Older Americans Act of 1965, and for other purposes.

On May 5, 1973:

S.J. Res. 51. Joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning May 6, 1973, as "National Historic Preservation Week."

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. ROBERT C. BYRD) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed a bill (H.R. 982) to amend the Immigration and Nationality Act, and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the

enrolled bill (S. 518) to abolish the Offices of Director and Deputy Director of the Office of Management and Budget, to establish the Office of Director, Office of Management and Budget, and transfer certain functions thereto, and to establish the Office of Deputy Director, Office of Management and Budget.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. ROBERT C. BYRD).

HOUSE BILL REFERRED

The bill (H.R. 982) to amend the Immigration and Nationality Act, and for other purposes, was read twice by its title and referred to the Committee on the Judiciary.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, May 3, 1973, be dispensed with.

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

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

CAMBODIA

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD the Harris survey—"49 Percent Disapprove Cambodia Raids," as published in the Washington Post on May 7, 1973; also an editorial published in the Christian Science Monitor on May 5, 1973, entitled "Bombers Versus Bombing."

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

[From the Washington Post, May 7, 1973]

THE HARRIS SURVEY: 49 PERCENT DISAPPROVE CAMBODIA RAIDS

(By Louis Harris)

The American people were deeply worried in mid-April that "Cambodia will fall to the Communists," and yet also disapproved by 49-33 percent of the use of B-52 bombers in the fighting that has continued in that country.

When asked why they opposed the use of U.S. bombers in Cambodia, the public volunteered three principal objections: (1) "we have no business there and should get out," (2) "the bombing is inhuman and should be stopped," and (3) "it could lead to our becoming involved in another Vietnam."

The prevailing mood in the country today clearly doubts that either the North Vietnamese or South Vietnamese intend to live up to the peace accords reached in Paris. A large 73 percent felt in mid-April it was at least "somewhat likely" that Cambodia would fall to the Communists. Even so, there was little disposition to wish another deep U.S. involvement in Southeast Asia, since Americans now agree, by 70–21 percent, that our involvement in Vietnam was a "mistake."

Here are key results from a nationwide Harris Survey conducted between April 18 and 23 among 1,537 households:

A 56 percent majority believed that "war will break out again between North and South Vietnam."

By 58–27 percent, the public also felt that "the government of South Vietnam will violate the terms of the Vietnam peace agreement."

By a much higher 82–7 percent, a lopsided majority also thought the "government of North Vietnam will violate" the peace accord.

Despite these forebodings that the Vietnam peace will not work out, President Nixon received high marks for his efforts to reach agreement with North Vietnam. The public was asked:

"How would you rate President Nixon—excellent, pretty good, only fair, or poor?"

[In percent]

	Positive	Negative	Not sure
Bringing the war in Vietnam to a close	64	34	29
Bringing the POW's home from Vietnam	80	18	2

However, the closing period of the Vietnam experience has not been one of unmitigated joy. The cross section was asked:

"When the U.S. prisoners-of-war finally came home, did you feel like celebrating as you might have after World War II, or did you feel more sad that the prisoners-of-war had been so long in captivity?"

[*Total public, in percentage*]

Felt like celebrating	8
Felt relieved	51
Felt sad	35
Not sure	6

[From the Christian Science Monitor, May 5, 1973]

BOMBERS VERSUS BOMBING

Now bomber crews over Cambodia have joined the appeal to America's conscience in challenging the continued bombing of which they are instruments. It behooves the administration to listen on pragmatic grounds as well.

In President Nixon's Watergate speech he spoke of his "terrible personal ordeal of the renewed bombing of North Vietnam." Think of the ordeal for those undergoing the bombardment.

Mr. Nixon went on to say the bombing "helped bring America peace with honor." What kind of honor will be bestowed on America if the bombing is endlessly continued during this peace?

To the grave doubts about even its military effectiveness must be added humanitarian outrage at the killing of civilians in Cambodia, as reported by this newspaper's correspondent there, and recognition that some of the bomber crews themselves are beginning to express the dismay they feel at their grim duties.

"I would like you to request the government not to drop any more bombs because we would like to rebuild our homes," said an old villager to Monitor correspondent Daniel Southerland.

The villagers said American fighter bombers made one pass after another at their village, damaging or destroying half the homes—and hurting only civilians, because the raids took place several hours after Cambodian insurgents had left. That night the bombers killed an 11-year-old boy where he had joined others taking refuge outside the village.

It is small wonder that at least a dozen B–52 crew members have protested against the bombing in letters to members of Congress. "This plea is not a one-man show," wrote one copilot. "The majority of the crew force presently engaged in these operations are tired and fed up with the entire affair. . . ." Another letter said: "Every day of bombing splashes blood in the face of America. What will we tell our children?" It is a good question.

The ACTING PRESIDENT pro tempore. Under the standing order, the Republican leader is recognized.

(The remarks Senator SCOTT of Pennsylvania made at this point on the introduction of S. 1711, the Foreign Assistance Act of 1973, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. HUGHES). Under the previous order, the distinguished Senator from South Dakota (Mr. MCGOVERN) is now recognized for not to exceed 15 minutes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time to be taken out of the allocation to the Senator from South Dakota.

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

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

Under the previous order, the Senator from South Dakota is recognized for not to exceed 14 minutes.

(The remarks Senator MCGOVERN made at this point on the introduction of S. 1714 through S. 1718, relating to Vietnam veterans, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order the Senator from Michigan (Mr. GRIFFIN) is recognized for not to exceed 15 minutes.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum, the time to be charged to my time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order, the Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 15 minutes.

REACTION TO MR. RICHARDSON'S STATEMENT

Mr. ROBERT C. BYRD. Mr. President, Mr. Elliot Richardson this morning announced that, if he is confirmed as Attorney General, he will appoint a special prosecutor to conduct the Watergate investigation.

As a member of the Senate Committee on the Judiciary, which will have the responsibility of confirming Mr. Richardson's nomination, I commend Mr. Richardson for his decision to follow this course of action, and for his announced intention to give the special prosecutor "all the independence, authority and staff support needed to carry out the tasks entrusted to him."

I am glad that Mr. Richardson has given assurances that the person selected will be of the highest integrity and will possess the professional qualifications needed to do the job that must be done.

Mr. Richardson said, furthermore, that he will also ask that the Senate Committee on the Judiciary hold a public hearing on the nominee, and added that he would welcome an "expression by the Senate as a whole of its confidence" in the man selected.

As a member of the Judiciary Committee, I wish to state that while I know of no precedent for such Senate committee action on a nonstatutory appointee, I likewise know of no factor that would prohibit such a course of action.

Moreover, I at this point would certainly have no objection to an expression by the full Senate, as has been suggested by Mr. Richardson, especially in view of Mr. Richardson's request for such action.

I have said on numerous occasions that the only way to get to the bottom of the Watergate mess is through an independent investigation, conducted under the direction of an independent, special prosecutor. That is the only way that the people of the United States are going to be convinced that the administration is seriously attempting to uncover the whole truth in this sordid affair.

Again, Mr. President, I commend Mr. Richardson for clearly indicating that if his nomination is confirmed by the Senate, he will use the authority given him by President Nixon, and I commend him for suggesting that the Senate participate in the selection process for the special prosecutor.

PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, unless another Senator wishes time, I yield back the remainder of my time under the order.

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 statements therein limited to 3 minutes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

SENATE RESOLUTION 106, APPOINTMENT BY ATTORNEY GENERAL OF SPECIAL ASSISTANT, PLACED ON CALENDAR

Mr. BROOKE. Mr. President, I ask unanimous consent that Senate Resolution 106 be placed on the calendar.

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

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

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

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that, on May 4, 1973, he presented to the President of the United States the enrolled joint resolution (S.J. Res. 51) to authorize and request the President to issue a proclamation designating the calendar week beginning May 6, 1973, as "National Historic Preservation Week."

REPORT ENTITLED "JUDICIARY COMMITTEE INQUIRY AND INVESTIGATION" — SUPPLEMENTAL REPORT (PART 2 OF S. REPT. NO. 93–128)

Mr. TUNNEY, from the Committee on the Judiciary, submitted a supplemental report entitled "Judiciary Committee Inquiry and Investigation," which was ordered to be printed as part 2 of Senate Report No. 93–128.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED LEGISLATION FROM DEPARTMENT OF THE AIR FORCE

A letter from the Assistant Secretary of the Air Force, Manpower, and Reserve Affairs, transmitting a draft of proposed legislation to amend title 10, United States Code, with respect to certain sections relating to strengths for the Army, Navy, Air Force, and Marine Corps (with accompanying papers). Referred to the Committee on Armed Services.

REPORT OF DISTRICT OF COLUMBIA BAIL AGENCY

A letter from the Director, District of Columbia Bail Agency, Washington, D.C., transmitting, pursuant to law, a report of that agency, for the year 1971 (with an accompanying report). Referred to the Committee on the District of Columbia.

REPORT ON U.S. FOREIGN POLICY

A letter from the Secretary of State, transmitting, pursuant to law, his report on U.S. foreign policy, for the year 1972 (with an accompanying report). Referred to the Committee on Foreign Relations.

REPORT ON OPERATIONS UNDER MUTUAL DEFENSE ASSISTANCE CONTROL ACT OF 1951

A letter from the Assistant Secretary for Economic and Business Affairs, Department of State, transmitting, pursuant to law, a report under the Mutual Defense Assistance Control Act of 1951 (Battle Act) for the year 1972 (with an accompanying report). Referred to the Committee on Foreign Relations.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Problems in Meeting Manpower Needs in the All-Volunteer Force," Department of Defense, dated May 2, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Ways To Improve Effectiveness of Rural Business Loan Program," Farmers Home Administration, Department of Agriculture, dated May 2, 1973 (with an accompanying report). Referred to the Committee on Government Operations

SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation of certain aliens (with accompanying papers) Referred to the Committee on the Judiciary.

TEMPORARY ADMISSION INTO THE UNITED STATES OF CERTAIN ALIENS

A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders relating to temporary admission into the United States of certain aliens (with accompanying papers). Referred to the Committee on the Judiciary.

PROSPECTUS RELATING TO PROPOSED LEASING OF SPACE IN THE FORT LINCOLN URBAN RENEWAL AREA, WASHINGTON, D.C.

A letter from the Acting Administrator, General Services Administration, transmitting, pursuant to law, a prospectus relating to the proposed leasing of space in the Fort Lincoln Urban Renewal Area, Washington, D.C. (with accompanying papers). Referred to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. ROBERT C. BYRD):

A resolution of the House of Representatives of the State of Arkansas. Referred to the Committee on Appropriations:

"HOUSE RESOLUTION 53

"Resolution urging the Congress of the United States to appropriate funds for the development of the Big Clifty Public Use Area on Beaver Lake

"Whereas, the tourist industry in Carroll County has experienced an unprecedented period of growth and expansion due to the popularity of the Big Clifty Public Use Area on Beaver Lake; and

"Whereas, the waters of the Big Clifty Public Use Area have provided many thrills and hours of satisfaction for the fishermen of Arkansas and surrounding states; and

"Whereas, the Big Clifty Public Use Area has become a center of water-sport activities and is a favorite gathering spot for vacationing families; now therefore,

"Be it resolved by the House of Representatives of the Sixty-Ninth General Assembly of the State of Arkansas:

"That the Congress of the United States appropriate funds for the development of the Big Clifty Public Use Area on Beaver Lake."

A joint resolution of the Legislature of

the State of California. Referred to the Committee on Commerce:

"ASSEMBLY JOINT RESOLUTION No. 4"—RELATIVE TO OIL IMPORTATION ON AMERICAN FLAGSHIPS

"Whereas, A vital piece of legislation is now being considered by Congress, which legislation will require at least half of all the nation's oil imports to be carried on American flagships; and

"Whereas, The United States is facing a growing shortage of domestic energy fuels, and in order to prevent our nation from being strangled by a lack of power supplies, we must import increased amounts of oil and natural gas; and

"Whereas, Nearly every maritime country in the world reserves 30 percent or more of its trade for home-nation ships—American flagships now carry only 5 percent of all our imports and exports; and

"Whereas, American-owned ships flying other countries' flags carry 41 percent of our oil imports; and

"Whereas, The U.S. flag tanker fleet, which had been limited largely to the carriage of oil from one domestic port to another under Jones Act protection, is being laid up because of the increased use of pipelines to transport oil; and

"Whereas, France guarantees the French fleet two-thirds of all oil import carriage; Japan reserves more than half of its oil import carriage to its own fleet; Peru, Chile, and Spain reserve all oil imports for their own tankers; and

"Whereas, The Soviet Union and other Iron Curtain countries see to it that ships of other nations are permitted into their trade only after their own fleets have been used to capacity; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact legislation to strengthen America by requiring at least half of the nation's oil imports to be carried on American flagships, to the extent feasible; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A joint memorial of the Legislature of the State of Colorado. Referred to the Committee on Agriculture and Forestry:

"SENATE JOINT MEMORIAL No. 6

"Memorializing the Congress of the United States to renovate the administration of the "Federal Food, Drug, and Cosmetic Act", especially with respect to the so-called Delaney clause of the act relating to diethylstilbestrol (DES) as a feed ingredient for use in cattle and sheep feeding

"Whereas, It is recognized that there exists a worldwide shortage of animal protein, and domestic production of meat animals has been geared up to insure the citizens of the United States an adequate supply of high quality, nutritious beef more efficiently and at less cost to the consumers; and

"Whereas, The decision by the Federal Food and Drug Administration to ban the use of diethylstilbestrol (DES) as a feed ingredient for use in cattle and sheep feeding was dictated partly by the interpretation that the Delaney Clause of the 1958 Food Additives Amendment to the "Federal Food, Drug, and Cosmetic Act' carried a 'zero tolerance' concept; and

"Whereas, The result is that the consuming public is being deprived of a product that has helped substantially to produce a record amount of high quality beef to satisfy a record demand for such beef more efficiently and at less cost to consumers by virtue of the fact that feeds containing traces of DES enable cattle to reach market weight faster and with approximately fourteen percent less feed; and

"Whereas, Diethylstilbestrol (DES) stimulates the growth of tumors in test animals and has been known to have caused cancer in humans, though not as a consequence of use as an animal feed; and

"Whereas, current tests for detecting residues are becoming more refined and are already fantastically sensitive, with promise of becoming more sophisticated and sensitive to the point that the day may come when, under zero residue tolerance interpretation of the Delaney Clause, it would be necessary to abandon many things that have added to our food supply and which are very useful to society; and

"Whereas, what is needed now is to evaluate the Delaney Clause as coolly and calmly as possible in light of new residue detection devices, and some leeway must be allowed for the "rule of reason" of men and scientists to prevail; otherwise, it is conceivable that available supplies of beef and other meats will diminish, and the consumer will be faced with reduced supplies at higher costs; now, therefore,

"Be it Resolved by the Senate of the Forty-ninth General Assembly of the State of Colorado, the House of Representatives concurring herein: That the Congress of the United States is hereby memorialized to consider the need for a revaluation and renovation of the food and drug laws, with special emphasis on the interpretation of the Delaney Clause, and its application to the use of diethylstilbestrol (DES) as a feed ingredient for use in cattle and sheep feeding.

"Be It Further Resolved, That copies of this Memorial be sent to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each member of Congress from the State of Colorado."

A joint memorial of the Legislature of the Senate of Colorado. Referred to the Committee on Finance:

"HOUSE JOINT MEMORIAL No. 1007

"Memorializing the Congress of the United States to enact legislation equalizing the Federal Income Tax burden borne by married and unmarried persons

"Whereas, There are more than thirty million unmarried persons in the United States paying federal income taxes; and

"Whereas, Because of gross inequities contained in the Internal Revenue Code, most unmarried taxpayers pay what amounts to a surtax because of their single status; and

"Whereas, For example, a single taxpayer having a taxable income of $8,000 pays $1,590 in federal income taxes, while by contrast, a married taxpayer having the same taxable income pays $1,380 in federal income taxes, a difference of $210; and

"Whereas, While it is only fair that the federal income tax laws recognize the varying living costs as between a family and single individuals, such differences should be reflected in the tax laws by the allowance of reasonable deductions and exemptions, not by the use of varying tax rates on the same amount of taxable income; and

"Whereas, There no longer exists any reason for the unfair and discriminatory treatment accorded single taxpayers under the federal income tax laws; now, therefore,

"Be It Resolved by the House of Representatives of the Forty-ninth General Assembly of the State of Colorado, the Senate concurring herein: That the Congress of the United States is hereby memorialized to enact legislation equalizing the tax burden of single and married taxpayers so that the two classes of taxpayers pay the same amount of tax on the same amount of taxable income.

"Be It Further Resolved, That copies of this Memorial be sent to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each member of Congress from the State of Colorado."

A joint resolution of the Legislature of the State of Colorado. Referred to the Committee on Interior and Insular Affairs:

"SENATE JOINT MEMORIAL No. 1

"Memorializing the Congress of the United States to define and implement a national energy policy

"Whereas, Educational, governmental, and industrial facilities in the State of Colorado have been shut down because of a fuel shortage; and

"Whereas, This serious condition is expected to continue and worsen in the future, unless immediate action is taken to correct the causes thereof; and

"Whereas, The General Assembly of the State of Colorado considers the present fuel shortage to be an immediate threat to the health, safety, and welfare of the citizens of the state; and

"Whereas, Increased reliance on importation of fossil fuels presents a problem of national security and balance of payments; and

"Whereas, There is a need for a national policy which will provide adequate supplies of energy at reasonable cost and protect the environment; and

"Whereas, Such objectives can be achieved by private enterprise under wise governmental policy; now, therefore,

"Be It Resolved by the Senate of the Forty-ninth General Assembly of the State of Colorado, the House of Representatives concurring herein: That the Congress of the United States is hereby memorialized to give top priority to immediately defining and implementing a National Energy Policy, including objectives to:

"(1) Encourage the economic and efficient use, as well as the conservation of energy by:

"(a) Encouraging and supporting research into additional methods to conserve energy and decrease per capita consumption of energy; and

"(b) Providing financial incentives to schools, educational institutions, and industries involved in research and education concerning energy conservation and the reduction of per capita consumption of energy; and

"(c) Supporting changes in technology designed to conserve energy and more economically utilize available resources;

"(2) Manage the leasing of federal lands located within the state of Colorado (which constitute thirty-five percent of the land of Colorado), so as to encourage their development for the production of energy resources giving consideration to the energy needs of Colorado's people and its environment;

"(3) Provide a tax policy which would encourage exploration and development in order to increase the supply of domestic oil and gas;

"(4) Encourage and facilitate an increase of refinery and transportation capacity for petroleum products;

"(5) Achieve a reasonable balance between protecting the environment and developing, processing, and transporting needed energy resources;

"(6) Gradually relax price controls on natural gas, but with provisions for equitable price treatment for consumers; and

"(7) Encourage the release of atomic energy blocks of land for development of nuclear power.

"Be It Further Resolved, That the Congress of the United States is hereby memori-

alized to do all that it deems necessary to promote the development of sources of clean and efficient energy through such means as:

"(1) Encouragement and support of research to determine the energy potential of resources, such as solar, geothermal, nuclear fusion and fission, oil shale, tar sands, and the gasification and liquefaction of coal;

"(2) Provision for tax incentives to industries involved in such research and development; and

"Be It Further Resolved, That copies of this Memorial be transmitted to the President of the United States, the President of the Senate of the Congress of the United States, the Speaker of the House of Representatives of the Congress of the United States, and the members of Congress from the State of Colorado."

A joint resolution of the Legislature of the State of Colorado. Referred to the Committee on Interior and Insular Affairs:

"SENATE JOINT MEMORIAL No. 8

"Memorializing the Congress of the United States to enact legislation to acquire water rights in accordance with State law, to state quantity of water claimed, and to pay compensation for vested water interests adversely affected

"Whereas, The federal government has filed numerous claims for water rights in the state of Colorado, in both the federal and state courts, seeking to establish federal claims to much of the water originating in Colorado, for the appointment of a federal water master, and for other relief; and

"Whereas, the federal government is claiming an unspecified and unknown amount of water for such purposes; and

"Whereas, The granting of the claims sought by the United States could seriously jeopardize the existing system of water rights within the state of Colorado, could create a dual system of administration and decrees, could require water users needlessly to readjudicate rights already acquired and decreed under state law, could adversely affect Colorado's rights under the Colorado River Compact and the Upper Colorado River Basin Compact, and will impose a heavy burden upon the citizens of this state to protect their individual water rights against the federal claims; and

"Whereas, The Colorado Water Conservation Board in regular session assembled at Denver, Colorado, the eighteenth day of January, 1973, recommended to the Governor of the state of Colorado, to the Attorney General of the state of Colorado and to the members of the Colorado General Assembly that all steps necessary and proper, including appropriate funding, be taken and authorized to require the United States to quantify its claims and to adjudicate them and thereafter administer them in accordance with state law; and

"Whereas, The Governor of the state of Colorado by Executive Order dated January 24, 1973, delivered to the Attorney General his requirement that the Attorney General represent and appear in all of the state cases wherein the United States of America has filed water claims, and to do any and all things necessary in the premises to defend and protect the interests of our sovereign state and its citizens as a whole; now, therefore,

"Be It Resolved by the Senate of the Forty-ninth General Assembly of the State of Colorado, the House of Representatives concurring herein: That the Congress of the United States is hereby memorialized to enact legislation which would require all federal agencies to acquire water rights in the state of Colorado in accordance with state law setting forth the quantity of all water claimed by the federal agencies and if such rights adversely affect or diminish vested water interests within the state of Colorado that Congress shall provide compensation therefor.

"Be It Further Resolved, That copies of this memorial be transmitted to the President of the United States, the President of the Senate of the Congress of the United States, the Speaker of the House of Representatives of the Congress of the United States, and each member of the Congress from the state of Colorado."

A concurrent resolution of the legislature of the State of Hawaii. Referred to the Committee on Banking, Housing and Urban Affairs:

"HOUSE CONCURRENT RESOLUTION No. 12

"Requesting the Federal Cost of Living Council (Price Commission) to immediately consider the appeals of the rulings by the Honolulu District Office, Internal Revenue Service, on the applications for hospital rate exceptions for the 11 County/State Hospitals in the State of Hawaii

"Whereas, the determinations made on applications for exception to the Price Commission Rules and Regulations filed for 11 County/State Hospitals in the State of Hawaii by the Honolulu District Office, Internal Revenue Service, were not based on the facts and the extenuating events presented in the appeal document now before the Council; and

"Whereas, the reasons given by the Internal Revenue Service for its current rulings, based on the assertion that the Economic Stabilization Program had not imposed extreme hardship or gross inequity, are not shared by the State of Hawaii; and

"Whereas, the current rulings on the hospitals' applications preclude the use of the "Base Rate" concept as announced by the Price Commission Ruling 1972–267 of October 20, 1972; and

"Whereas, the Social Security Amendments of 1972 (P.L. 92–603, H.R. 1, October 30, 1972) effect changes in reimbursements of payments where customary charges are less than reasonable cost (Sec. 233), which will deny the hospitals from receiving reimbursements beginning July 1, 1973, resulting in gross inequity and hardship; and

"Whereas, raising the hospitals' customary charges would result in a more adequate cashflow from charges to patients on a monthly basis, which is in keeping with the Department of Health, Education, and Welfare request to maintain a close parity between interim charge and costs; and

"Whereas, the granting of these increased rates, to include exception to the base period net revenue margin, does not appear to directly affect the Economic Stabilization Program insofar as inflation is concerned, based on the fact that the hospitals are currently reimbursed for Medicare and Medicaid patients through the retroactive reimbursement process; now, therefore,

"Be it resolved by the House of Representatives of the Seventh Legislature of the State of Hawaii, Regular Session of 1973, the Senate concurring, that the Federal Cost of Living Council (Price Commission) is urged and requested to immediately consider the appeals of the ruling of the Internal Revenue Service now before the Council on the application for hospital rate exceptions for the 11 County/State Hospitals in the State of Hawaii; and

"Be it further resolved that copies of this Concurrent Resolution be transmitted to the Hawaii Members to the United States Congress for their support and assistance, and to the Secretary, Department of Health, Education and Welfare; and

"Be it further resolved that copies of this Concurrent Resolution be transmitted to the Speaker of the U.S. House of Representatives and the President of the U.S. Senate for their support and assistance."

A concurrent resolution of the Legislature of the State of Hawaii. Referred to the Committee on Finance:

"SENATE CONCURRENT RESOLUTION No. 30

"Requesting immediate enactment by the Congress of the United States of Appropriate Legislation to establish adequate duties and quotas on foreign pineapple imports to protect Hawaiian Pineapple Production

"Whereas, the State Legislature is gravely aware of the current crisis facing the pineapple industry in the State; and

"Whereas, it is reasonably clear that pineapple production in Hawaii is in a State of crucial economic strain when three out of the four companies making up Hawaii's pineapple industry have announced, by successive independent actions within one year, closings and cutbacks that will reduce Hawaii's pineapple production by one-third within the next three years; and

"Whereas, the State Legislature recognizes the urgent need for cooperative action by the industry and the State and the Federal government to insure the continued viability of Hawaii's pineapple industry; and

"Whereas, the Hawaii State Department of Agriculture has recently issued a comprehensive study which revealed that there is inadequate tariff protection for Hawaiian pineapple against foreign competition in the government to insure the continued viability of all other imported canned fruits; and

"Whereas, this lack of adequate duties and quotas to protect Hawaiian pineapple from foreign competition is evidenced by the fact that during the period between 1950 and 1971 imports of foreign pineapple into the United States increased by 3.8 million cases or 204 percent; and in terms of dollars, $32.2 million worth of foreign pineapple was imported in 1971 compared to $7.4 million of other canned fruits; and

"Whereas, since the mid-sixties, nearly all the increases in pineapple consumption on the United States mainland were accounted for by foreign pineapple because the United States does not have a quota system for pineapple and because the duty on pineapple is very low; and

"Whereas, in view of the potential statewide impact of any further decline in pineapple production and sales and the scope of legislative actions that must be taken to meet current problems, the Hawaii Legislature urges strong Congressional enactment to get United States industry, including Hawaii's pineapple industry, what it needs to meet the aggressive competition of overseas producers: an even break in the marketplaces of the world; now, therefore,

"Be it resolved by the Senate of the Seventh Legislature of the State of Hawaii, Regular Session of 1973, the House of Representatives concurring, that the Congress be, and it is hereby urgently requested to establish adequate duties and quotas on foreign pineapple imports to protect Hawaiian pineapple production; and

"Be it further resolved that certified copies of this Concurrent Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, to each member of Hawaii's Congressional delegation, and to the United States Secretary of Agriculture."

A concurrent resolution of the Legislature of the State of Hawaii. Referred to the Committee on Finance:

"SENATE CONCURRENT RESOLUTION No. 40

"Requesting the Congress of the United States to pass legislation to effectively ban all foreign importation of fresh or processed pineapple and other fruit and vegetable products into the United States from countries which allow use of pesticide chemicals not cleared for use in the United States or which are produced under stand-

ards of sanitation less stringent than required of United States producers

"Whereas, the State of Hawaii is symbolized throughout the world not only for its beautiful environmental setting, but also for its agricultural products—most notably, the unique and delicious pineapple fruit—which many visitors of our island State take back with them as gifts and tokens of remembrance of their trip to our "Pineapple State"; and

"Whereas, the golden image bestowed upon Hawaii through the pleasant experience of tasting this juicy tropical fruit can be drastically marred if the quality of the fruit is affected by some misuse of a pesticide chemical or other deleterious contaminants which are used to produce some foreign pineapple being imported into the United States; and

"Whereas, aside from the foregoing euphoric benefits derived from the Hawaiian pineapple, a growing area of concern in the State's economy lies in the potential for exporting more Hawaii produced pineapples to the United States mainland and foreign countries; and

"Whereas, in spite of the higher cost of pineapple production in Hawaii, the quality of the Hawaiian pineapple has been found to out-class most foreign competition; and

"Whereas, this quality production is a result of the dedicated efforts of industry, costing it tens of millions of dollars which was spent on research to make Hawaii the world's leading pineapple producer—and pineapple a major source of State income and employment; and

"Whereas, the Legislature acknowledges the fact that pineapple production could not continue in Hawaii without the use of certain agricultural chemicals—all of which are safely applied without hazard to people or the environment; and

"Whereas, the Legislature, however, expresses its concern over foreign grown pineapples which are sometimes produced in unsanitary conditions, and also the increased misuse of chemicals in some of these foreign countries and the attendant adverse effects on the health, safety, and welfare of the American people is a matter of national importance; and

"Whereas, the Federal government is strongly requested to conduct an increased and thorough inspection of imported foreign pineapple and all other foreign fruit products; and to stringently start enforcing its grade standards for the purposes of protecting the general health and welfare of the American consumer; and

"Whereas, the beneficial effects of such an enforcement program should be the improvement of foreign pineapple quality, and it should also help the Hawaiian pineapple industry in competing on a better cost basis; and

"Whereas, the Legislature hereby recognizes and affirms the urgent need to seek all reasonable avenues of action in the attempt to stem any further decline in Hawaii's pineapple production and to help maintain a viable pineapple industry as an important economic, social and environmental asset in the future of Hawaii; now, therefore,

"Be it resolved by the Senate of the Seventh Legislature of the State of Hawaii, Regular Session of 1973, the House of Representatives concurring, that the Congress of the United States be, and it is hereby urgently requested to pass legislation to effectively ban all foreign importation of fresh or processed pineapple and other fruit and vegetable products into the United States from countries which allow use of pesticides chemicals not cleared for use in the United States or which are produced under standards of sanitation less stringent than required of United States producers; and

"Be it further resolved that certified copies of this Concurrent Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, to each member of Hawaii's Congressional delegation, to the United States Secretary of Agriculture, to the United States Secretary of Health, Education, and Welfare, and to the United States Commissioner of the Food and Drug Administration."

A concurrent resolution of the Legislature of the State of Hawaii. Referred to the Committee on Finance:

"SENATE CONCURRENT RESOLUTION NO. 37

"Requesting the Congress of the United States to seek and provide more equitable treatment from Foreign Governments for Hawaii pineapple in the world market

"Whereas, the Hawaii Legislature is fully cognizant and deeply concerned over the decreasing role of Hawaii-produced pineapple in the national and world market, and of the increasingly bleak future that appears now on the horizon to face one of Hawaii's foremost export industries; and

"Whereas, pineapple production has been a mainstay in Hawaii's economy since the turn of the century, beginning in the year 1903, with a modest production of 1,893 cases and reaching a high peak of 30.8 million cases in 1957, and eventually leveling off to a production of approximately 29 million cases annually; and

"Whereas, pineapple is Hawaii's second largest agricultural industry, and the processed value of Hawaiian pineapple in 1972 amounted to $137 million; and

"Whereas, Hawaii's world-renowned pineapple industry employs 6,200 year-round workers who earn $42 million is annual wages and another 18,000 seasonal workers who earn over $10 million per year; and

"Whereas, in recent years, pineapple production has remained stable in spite of a reduction in the number of companies operating, from nine in 1950 to the four existing pineapple companies today; and

"Whereas, the recently announced plans to phase out Dole Company's and Del Monte's plantations on the island of Molokai and the scheduled closing of Hawaiian Fruit Packers, the single remaining pineapple operation on Kauai, represent actions that will result in substantial cutbacks in total pineapple production in the State; and

"Whereas, Dole's recent decision to cut Oahu's pineapple acreage by half and convert the remaining 4,500 acres from processed to fresh fruit production will also detrimentally affect the total output of the pineapple industry; and

"Whereas, Hawaii's share of total world pineapple production amounted to 72 per cent in 1950, but by the end of 1969, Hawaii accounted for less than one-third of the world's supply; and

"Whereas, with Hawaii's production remaining stable during this period, it is obvious that production in areas outside of Hawaii has increased substantially; and

"Whereas, the Hawaii State Department of Agriculture has recently prepared a study entitled "The Impact of Foreign Pineapple Production on the Hawaiian Pineapple Industry" which revealed, among other problems, that there exists highly discriminating tariff and quota practices of other countries that are intended to favor certain foreign pineapple producers by stringently restricting the Hawaiian pineapple trade in the world market; and

"Whereas, the Hawaiian pineapple industry is severely handicapped and it is virtually barred from being able to compete in the major foreign markets by trade barriers—notably the special import duties and quotas that are not only discriminating but also in violation of the General Agreement on Tariffs and Trade; and

"Whereas, effective federal action in removing these discriminating barriers on Hawaiian pineapple in foreign markets will definitely help Hawaii's pineapple production in this critical period; and

"Whereas, immediate action by industry and the State and Federal governments is necessary to insure the continued viability of Hawaii's pineapple industry; now, therefore,

"Be it resolved by the Senate of the Seventh Legislature of the State of Hawaii, Regular Session of 1973, the House of Representatives concurring, that the Congress be, and it is hereby urgently requested to seek and provide more equitable treatment from foreign governments for Hawaiian pineapple in the world market; and

"Be it further resolved that certified copies of this Concurrent Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, to each member of Hawaii's Congressional delegation, and to the United States Secretary of Agriculture."

A resolution of the Senate of the State of Hawaii. Referred to the Committee on the Judiciary:

"SENATE RESOLUTION 96

"Requesting the people of the State of Hawaii and the Nation to consider and discuss amnesty

"Whereas, the peace agreement ending the Vietnam war has been signed and provides for the final reconciliation of differences between the nations of South-East Asia and the United States; and

"Whereas, it is in the interest of world peace that the people of the countries involved in this long and tragic war put aside the hostilities of the past and seek to heal the deep spiritual and social wounds they have suffered, and rebuild what they have lost; and

"Whereas, it is imperative that the wide ranging and profound divisions generated by the Vietnam war within our own State and nation be reconciled; and

"Whereas, the Vietnam tragedy, for our own society, may not only be described in terms of those who died or are permanently disabled, but also those who refused to participate in the war; and

"Whereas, *these* men who rejected our government's participation in Vietnam and who are now *incarcerated or in exile* are tragic reminders of the divisive effect this war has had and still has upon our nation; and

"Whereas, it has been repeatedly suggested that these men be granted amnesty so that we may once again resume our quest for national unity and harmony; and

"Whereas, neither vindication of moral or political beliefs nor retribution against those who held these beliefs will contribute towards the resolution of the divisions within our society; and

"Whereas, since the founding of the nation, thirty-five amnesties have been proclaimed, the last occuring in 1950 when President Harry S. Truman pardoned men convicted of military desertion during the previous five years; and

"Whereas, the granting of amnesty by the President or Congress will aid in healing the differences among our people only if it is with the general consent of the people; and

"Whereas, it is only through sincere self-examination, reflection, and discussion that the divisive controversy of the Vietnam war will finally end; now, therefore,

"Be it resolved by the Senate of the Seventh Legislature of the State of Hawaii, Regular Session of 1973, that the people of the State of Hawaii and the Nation consider and discuss amnesty; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives,

Hawaii's congressional delegation, and the Governor of the State of Hawaii."

A concurrent resolution of the General Assembly of the State of Indiana. Referred to the Committee on Labor and Public Welfare:

"A SENATE CONCURRENT RESOLUTION"

"Memorializing Congress to continue its support of the community comprehensive mental health centers programs in order that Indiana's network of thirty-two community comprehensive mental health centers may be completed

"Whereas, In 1955 President Dwight David Eisenhower appointed the Joint Commission on Mental Illness and Health to study the problems of this nation's mentally ill; and

"Whereas, The Joint Commission of Mental Illness and Health in its report to the President in 1961 recommended, among other things, the creation of community comprehensive mental health centers to provide treatment facilities for this nation's mentally ill in close-to-home treatment facilities; and

"Whereas, In 1963 Congress passed the Community Mental Health Centers Act implementing the joint Commission of Mental Illness and Health report and authorized federal dollars to assist the several states in providing its network of community comprehensive mental health centers; and

"Whereas, Congress committed itself to becoming a full partner with the several states and local communities in the initial construction cost and staffing cost; and

"Whereas, The Indiana General Assembly and the several counties of this state enacted legislation and provided the state's and local government share to create a network of thirty-two community comprehensive mental health centers for the citizens of the state of Indiana; and

"Whereas, Ten centers are presently in operation in Indiana, five more will be operational within the next two-year period and the remaining seventeen centers will be operational by 1980; and

"Whereas, The state of Indiana and local governments have kept their pledge to the mentally ill of this state by enacting the necessary legislation and providing funds to complete the network of thirty-two communiy comprehensive mental health centers: Therefore

"Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

"Section 1. That the General Assembly hereby memoralizes the Indiana Congressional delegation, the Federal administration and the Congress to renew the Community Mental Health Centers Act to permit the continuation and completion of the plan to provide community comprehensive mental health centers for all this nation's mentally ill and to authorize and appropriate the federal funds necessary to keep the national commitment as a full partner in combating mental illness.

"Section 2. The Secretary of the Senate is hereby directed to forward copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives of the Congress of the United States, and to all the members of Congress from the state of Indiana.

"Adopted by Voice Vote this 13th of April, 1973."

Resolutions of the Commonwealth of Massachusetts. Referred to the Committee on Armed Services:

"RESOLUTIONS

"Memorializing the Congress of the United States to take such action as may be necessary to prevent the relocating of the mooring of the Naval Frigate *Constitution* from Massachusetts

"Whereas, The citizens of Massachusetts are rightly disturbed over the alleged plans of the Department of Defense to relocate the famous Naval Frigate the *Constitution* from its mooring in Boston to a mooring in another state; and

"Whereas, Built at a Boston Shipyard in 1797 and one of the most famous vessels in the United States Navy, the *Constitution* has been moored at the Boston Naval Shipyard as a naval relic since May 7, 1934; and

"Whereas, In 1976, the year of the bicentennial of our country, millions of people will be visiting the Commonwealth especially Boston, the Cradle of Liberty, and it is only right and fitting that the *Constitution* should be moored in Boston or someplace nearby along the Massachusetts coast, the state where she was built; therefore be it

"Resolved, That the Massachusetts House of Representatives respectfully urges the Congress of the United States to take such action as may be necessary to prevent the relocation of the mooring of the *Constitution* from Massachusetts and insure that the mooring of this vessel will remain in Massachusetts; and be it further

"Resolved, That copies of these resolutions be sent forthwith by the Secretary of the Commonwealth to the President of the United States, to the Secretary of Defense, to the presiding officer of each branch of Congress and to the members thereof from the Commonwealth.

"House of Representatives, adopted, April 23, 1973."

Resolutions of the Commonwealth of Massachusetts. Referred to the Committee on Banking, Housing and Urban Affairs:

"RESOLUTIONS

"Memorializing the Congress of the United States to enact legislation providing for Federal payment of State constructed housing along interstate highways

"Whereas, There are insufficient structures to house the increasing population of our country; now, therefore, be it

"Resolved, That the General Court of Massachusetts respectfully urges the Congress of the United States to enact legislation to provide funds for states to construct housing along interestate highways; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the presiding officer of each branch of Congress and to each member thereof from the Commonwealth.

"House of Representatives, adopted, April 11, 1973.

"Senate, adopted in concurrence, April 17, 1973."

Resolutions of the Commonwealth of Massachusetts. Referred to the Committee on Finance:

"RESOLUTIONS

"Memorializing the Congress of the United States to enact legislation that would preclude social security benefits from affecting Veterans Administration pension payments

Whereas, Many veterans are receiving benefits under the Social Security Act and Veterans Administration pensions; and

"Whereas, It would be unfair and unjust to allow any benefits under the Social Security Act to decrease or eliminate the Veterans Administration pensions to veterans receiving both; now, therefore, be it

"Resolved, That the General Court of Massachusetts respectfully urges the Congress of the United States to enact legislation to preclude any change in the Social Security Act from affecting any Veterans Administration pension to veterans receiving both; and be it further

"Resolved, That a copy of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress and to the members thereof from the Commonwealth.

"House of Representatives, adopted, April 17, 1973.

"Senate, adopted in concurrence, April 25, 1973."

Resolutions of the Commonwealth of Massachusetts. Referred to the Committee on the Judiciary:

"RESOLUTIONS

"Memorializing the Congress of the United States to allow greater immigration to the people of Ireland

"Whereas, Unfortunately, there seems to be a part of the new United States immigration policy which is neither just nor equitable toward the Irish and, as a practical matter, the average Irish person who desires to come and settle here in the United States will no longer be allowed to do so; and

"Whereas, If the present immigration law had been in effect one hundred and fifty years ago, at least ninety per cent of the Irish in America would not have been allowed to enter the United States; and

"Whereas, It is recognized that the old immigration law was unjust and unfair to some other nationalities but that the 1965 Immigration Act substituted a law which, now, is as unfair to Ireland as the old law was to these other nationalities; and

"Whereas, Irish nuns and brothers have, for many years, staffed schools, hospitals, orphanages and rest homes for the aged in our nation and these religious groups, who desire to come here to continue this work, must now wait their turns because of this new Immigration Act; and

"Whereas, In nineteen hundred and sixty-five, the Irish ranked fifth among the nationals immigrating to the United States and since then they no longer rank fifth or even tenth. Irish immigration is at an all time low. In nineteen hundred and sixty-seven, two thousand six hundred and sixty-five were admitted. Since the enactment of the new law in July, nineteen hundred and sixty-eight, a total of one thousand and seventy-six persons applied for visas and, through November thirty, nineteen hundred and sixty-eight, only seventy-two were issued; now, therefore, be it

"Resolved, That the General Court of Massachusetts respectfully urges the Congress of the United States to enact such legislation as may be necessary to allow greater immigration to the people of Ireland; and be it further

"Resolved, That copies of these resolutions be sent forthwith by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress and to each member thereof from the Commonwealth.

"House of Representatives, adopted, April 17, 1973.

"Senate, adopted in concurrence, April 24, 1973."

Resolutions of the Commonwealth of Massachusetts. Referred to the Committee on Veterans' Affairs:

"RESOLUTIONS

"Memorializing the Congress of the United States to enact legislation to provide for Federal Financial assistance for the Veterans' Service program similar to the assistance provided for the welfare program

"Whereas, The federal government financially assists the welfare programs presently administered in this commonwealth; and

"Whereas, the veterans of this commonwealth have had the benefit of the administration of the Veterans' Service program by well qualified experts in the field of rehabilitation in the community in which the veteran lives; and

"Whereas, The administration of this phase of the problem of the disadvantaged veteran by other than the Veterans' Service officers of this commonwealth would result

in substantially affecting its efficiency; now, therefore, be it

"Resolved, That the General Court of Massachusetts respectfully request the Congress of the United States to enact legislation that will provide federal financial assistance to the Veterans' Service program to the same extent that federal financial assistance is presently provided to the welfare program; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the presiding officer of each branch of Congress and to the members thereof from the Commonwealth, and to the President of the United States."

"House of Representatives, adopted, April 17, 1973.

"Senate, adopted in concurrence, April 25, 1973."

A joint resolution of the Legislature of the State of Montana. Referred to the Committee on Finance:

"SENATE JOINT RESOLUTION No. 16

"A joint resolution of the Senate and the House of Representatives of the State of Montana to the Honorable Mike Mansfield and the Honorable Lee Metcalf, Senators from the State of Montana, the Honorable Richard Shoup and the Honorable John Melcher, Representatives from the State of Montana, and to the Congress of the United States asking that Federal block grant assistance to upgrade law enforcement and criminal justice in Montana be continued

"Whereas, statistical reports from the federal bureau of investigation show an increase in serious crime of eight percent (8%) in Montana during 1971, and

"Whereas, during the past four (4) years, state and local governments have developed plans and resources for a coordinated effort to reduce crime and increase the effectiveness of Montana's criminal justice system, and

"Whereas, if congress reduces or terminates block grant funding assistance to the state of Montana now available through title 1 of the Omnibus Crime Control and Safe Streets Act, coordinated statewide efforts to control crime will be greatly jeopardized.

"Now, therefore, be it resolved by the Senate and the House of Representatives of the State of Montana: That the Congress of the United States maintain either a block grant or a special revenue sharing program of financial assistance to the state of Montana for the purposes of reducing crime and increasing the effectiveness of Montana's criminal justice system, and

"Be it further resolved, that copies of this resolution be sent by the secretary of state of Montana to the Honorable Mike Mansfield and the Honorable John Metcalf, senators from the state of Montana, the Honorable Richard Shoup and the Honorable John Melcher, representatives from the state of Montana, and to presiding officers of the senate and the house of representatives of the United States."

A joint resolution of the Legislature of the State of Nevada. Referred to the Committee on Interior and Insular Affairs:

"ASSEMBLY JOINT RESOLUTION No. 9

"Memorializing the Congress of the United States to enact legislation which transfers Red Rock Recreation Lands to the Nevada park system

"Whereas, Red Rock Canyon located in the Spring Mountain Range in Clark County, Nevada, is an area of outstanding scenic and recreational opportunity, possessing scientific and educational, geological and ecological value; and

"Whereas, The Federal Government in 1967 recognized the natural values of Red Rock Canyon and by presidential executive order withdrew 77,000 acres from the public domain and designated these lands to be known as the Red Rock Recreation Lands; and

"Whereas, The Red Rock Recreation Lands are presently administered by the Bureau of Land Management and there is little indication that Congress or the Department of Interior intends to provide the Bureau of Land Management with adequate funds or necessary management for the protection and development of visitor facilities and recreational sites in the area; and

"Whereas, There exists a need for a major park and developed recreation area within easy access of a large and rapidly expanding urban area in Southern Nevada; and

"Whereas, The Nevada state park system has demonstrated expertise in managing areas under its administration, protecting natural resources, enhancing and developing suitable visitor facilities; and

"Whereas, it is in the best interests of Southern Nevada to transfer the administration of the Red Rock Recreation Lands to the Nevada park system in order to fufill recreational needs and protect natural resources; and

"Whereas, The 1971 Nevada legislature, desiring to fulfill the increasing recreational needs of Southern Nevada, authorized the acquisition of the lands in Red Rock Canyon and the 1973–1975 budget recommends funding for the development and operation of recreational facilities; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of Nevada, jointly, That the legislature of the State of Nevada hereby respectfully memorializes the 93d Congress of the United States to adopt legislation enabling the Nevada state park system to acquire the 77,000 acres known as Red Rock Recreational Lands; and be it further

"Resolved, That copies of this resolution be prepared and transmitted forthwith by the legislative counsel to the Speaker of the House of Representatives, the President of the Senate and each member of the Nevada congressional delegation; and be it further

"Resolved, That this resolution shall become effective upon passage and approval."

A concurrent resolution of the Legislature of the State of Oklahoma. Referred to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION No. 1026

"A concurrent resolution petitioning Congress to call a convention for the purpose of proposing an amendment to the constitution of the United States

"Be it resolved by the House of Representatives of the 1st session of the 34th Oklahoma Legislature, the Senate concurring therein:

"Section 1. The Congress of the United States is respectfully petitioned by the Oklahoma State Legislature to call a convention for the purpose of proposing the following article as an amendment to the Constitution of the United States:

"'ARTICLE —

"'No student shall be assigned to nor compelled to attend any particular public school on account of race, religion, color or national origin,'

"SEC. 2. A duly authenticated copy of this Resolution shall be transmitted to the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States, to each member of the Congress from this State and to each House of each State Legislature in the United States.

"Adopted by the House of Representatives the 19th day of March, 1973.

"Adopted by the Senate the 25th day of April, 1973."

A concurrent resolution of the Legislature of the State of Pennsylvania. Referred to the Committee on the Judiciary:

"SENATE OF PENNSYLVANIA

"The Reverend Doctor Martin Luther King, Jr., was a modern apostle of liberty and justice for all peoples, regardless of race, color, or creed.

"Doctor King was an outstanding leader in the cause of Civil Rights and he used his position as head of the Southern Christian Leadership Conference to establish the principle of nonviolence.

"Whereas, The Reverend Doctor Martin Luther King, Jr., was a man who dedicated his life to the revolutionary principles that love and justice are the most powerful truths that mankind possess.

"The Reverend Doctor Martin Luther King, Jr., devoted a lifetime to the causes of the poor, to the civil and human rights of all peoples, and to the purpose of restoring to mankind domestic and world peace through the concept of nonviolence for which he was awarded the Nobel Peace Prize.

"The Reverend Doctor Martin Luther King, Jr., lived a life of service to his fellowman, he lived a life of love, that called for an end to war, and of the need for cooperation among men, of the need for brotherhood and unity among peoples of all races, colors and religions.

"Around the entire Nation there continues the good works begun by this great man whose birthday anniversary is celebrated on January 15 of each year and whose martyrdom we respect and pay reverence to; therefore be it

"Resolved, That this day, the forty-fourth anniversary of the birthday of Doctor Martin Luther King, Jr., a great American and a great humanitarian, that this Senate placed on record its appreciation and gratitude in recognition of the services rendered by him to the Nation and to mankind; and be it further

"Resolved, (the House of Representatives concurring), That the General Assembly of the Commonwealth of Pennsylvania memorialize the Congress of the United States to designate January 15 as a National holiday in memory of the Reverend Doctor Martin Luther King, Jr.; and be it further

"Resolved, That copies of this resolution be transmitted to the presiding officers of each House of the Congress of the United States and to each Senator and Representative from Pennsylvania in the Congress of the United States."

A joint resolution of the Legislature of the State of Utah. Referred to the Committee on the Judiciary:

"H.J. RES. No. 30

"A joint resolution of the 40th legislature of the State of Utah, requesting a memorial to the Congress of the United States

"Be it resolved by the Legislature of the State of Utah: That the Congress of the United States take without delay such action as necessary, including a Constitutional Amendment if needed, to preserve the right to life of unborn children and to forestall a wholesale wave of life-taking abortions which could result from the recent decision of the Supreme Court.

"Be it further resolved, that the Secretary of State send copies of this resolution to the President of the Senate and to the Speaker of the House of Representatives of the Congress of the United States and to each member of the Congress from the State of Utah."

A joint resolution of the Legislature of the State of Utah. Referred to the Committee on Labor and Public Welfare:

"H.J. RES. No. 2

"A joint resolution of the 40th legislature of the State of Utah requesting the United States Department of Labor and the Congress of the United States to modify Federal jurisdiction and standards applicable to child labor and grant to the States more

latitude to modify labor laws to conform with the needs of youth.

"Be it resolved by the Legislature of the State of Utah:

"Whereas, the conditions which prompted stringent protective legislation designed to interdict exploitation and abuse in the area of child labor have been largely ameliorated through the efforts of labor organizations and federal and state regulatory agencies; and

"Whereas, increased vocational and apprenticeship training programs now available to young people better equip them to enter the labor market with confidence and skill; and

"Whereas existing federal labor laws restrict meaningful employment for many young people qualified for available employment and impose restraints upon states attempting to effectively provide employment for youth.

"Now, therefore, be it resolved, by the 40th Legislature of the State of Utah, that the United States Department of Labor and the United States Congress consider modification of child labor legislation in order to provide states the opportunity to enact responsible labor legislation to provide more employment opportunities for qualified youth.

"Be it further resolved, that members of the Congressional delegation from the State of Utah use their efforts to effectuate fruition of this resolution.

"Be it further resolved, that the Secretary of State of Utah send copies of this resolution to the Senate and House of Representatives of the United States, to the Secretary of Labor of the United States Department of Labor and to each Senator and Representative from the State of Utah."

A joint memorial of the Legislature of the State of Washington. Referred to the Committee on Finance:

"HOUSE JOINT MEMORIAL NO. 21

To the Honorable Richard M. Nixon, President of the United States, and to the President of the Senate and the Speaker of the House of Representatives of the United States, in Congress assembled, and to the Secretary of Health, Education, and Welfare:

"We, your Memorialists, the Senate and House of Representatives of the State of Washington, in legislative session assembled, respectfully represent and petition as follows:

"Whereas, there exists in the State of Washington a recognized need for an effective program of social services to combat the multiple problems of mental illness, mental retardation, drug abuse, juvenile delinquency, alcoholism, child abuse, and child development; and

"Whereas, the Congress of the United States has clearly reaffirmed its belief in the necessity of these programs and has acted to continue these programs at their current level; and

"Whereas, The Department of Health, Education and Welfare, in implementing these programs, has previously advanced the principle of the New Federalism which is designed to expand the authority and responsibility of State and local governments and reduce the concentration of federal power and authority in Washington, D.C.; and

"Whereas, The Department's recently proposed amendments to the Social Services Regulations as codified in the Federal Register dated February 16, 1973 and affecting Titles I, IV A and B, X, XIV, and XVI of the Social Security Act are, in many respects, violative of specific statutory provisions and of expressed Congressional intent and are, in important respects, arbitrary, capricious and antithetical to the principle of the New Federalism and would impose upon the State of Washington and local governments within this state additional Federal controls, restraints, and infringements; and

"Whereas, These amendments to the regulations would seriously jeopardize and in some cases effect the termination of essentially needed programs currently operated within this state, especially those programs designed to serve the mentally ill and mentally retarded; and

"Whereas, The 43rd Session of the Washington Legislature is unalterably opposed to the recently proposed Social Services Regulations as circulated, inasmuch as they would drastically reduce the essential programs currently provided within this state, thwart the continuing attempts of this state to integrate and improve services, impose upon this state to integrate and improve services, impose upon this state cumbersome and unnecessary federal controls and administrative procedures designed to hamstring the program and arbitrarily infringe upon those areas of authority and responsibility reserved by the State of Washington and/or local governments:

"Now, therefore, Your Memorialists respectfully pray that the Secretary of Health, Education and Welfare withdraw the proposed regulations forthwith and that any future regulations in this area be designed to implement rather than thwart the purposes of existing law, the concept of New Federalism, and sound principles of administrative decision-making.

"Be it resolved, That copies of this Memorial be immediately transmitted to the Honorable Richard M. Nixon, the President of the United States Senate, the Speaker of the House of Representatives, to the Secretary of the Department of Health, Education and Welfare, and to each member of the Congress from the State of Washington."

A resolution adopted by the Parish Council of East Baton Rouge, Louisiana, expressing opposition to the sale of wheat by the United States to Russia. Referred to the Committee on Agriculture and Forestry.

A resolution adopted by the Board of Directors, Wayne-White Counties Electric Cooperative, Fairfield, Illinois, praying for the enactment of legislation relating to financing for the electric cooperatives of the nation. Referrd to the Committee on Agriculture and Forestry.

A resolution adopted by the Council of the County of Maui, Hawaii, praying for the enactment of legislation to permit the extension of retirement benefits to members of the reserve components of the Armed Services. Referred to the Committee on Armed Services.

A resolution adopted by the Elmira Community Advisory Committee to the New York State Urban Development Corporation, Elmira, New York, praying for the enactment of legislation relating to housing and community facilities for victims of Hurricane Agnes. Referred to the Committee on Banking, Housing and Urban Affairs.

A resolution adopted by the City Council of Torrance, California, praying for the enactment of legislation to convert the Highway Trust Fund to a Transportation Fund. Referred to the Committee on Finance.

A resolution adopted by the Parish Council of the Parish of East Baton Rouge, Louisiana, expressing opposition to proposed legislation to provide financial support for the rebuilding of North Vietnam. Referred to the Committee on Foreign Relations.

A resolution adopted by the City Council of Wasco, Michigan, endorsing a concurrent resolution of the Legislature of the State of Michigan, praying for an amendment of the Constitution. Referred to the Committee on the Judiciary.

The petition of M. D'Armon, Seattle, Washington, praying for a redress of grievances. Referred to the Committee on the Judiciary.

A resolution adopted by the Ventura County Community College District, Ventura, California, relating to confirmation of appointments made to certain United States Department of Health, Education and Welfare positions. Referred to the Committee on Labor and Public Welfare.

Two resolutions adopted by Cerritos College, Norwalk, California, relating to confirmation of appointments to certain United States Department of Health, Education and Welfare positions. Referred to the Committee on Labor and Public Welfare.

A resolution adopted by Colorado Congress of Parents and Teachers, Inc., Denver Colorado, concerning the reduction and impoundment of certain funds. Referred to the Committee on Labor and Public Welfare.

A resolution adopted by the Scottish Rite Woman's Club, St. Louis, Missouri, relating to aid in the form of tax credits in the matter of education. Referred to the Committee on Labor and Public Welfare.

A resolution adopted by the Board of County Commissioners, Monroe County, Florida, expressing appreciation on the passage of revenue-sharing legislation. Ordered to lie on the table.

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. SCOTT of Pennsylvania:

S. 1711. 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 and Mr. MATHIAS):

S. 1712. A bill to amend title II of the Social Security Act to provide a special rule for determining insured status, for purposes of entitlement of disability insurance benefits, of individuals whose disability is attributable directly or indirectly to meningioma or other brain tumor. Referred to the Committee on Finance.

By Mr. BEALL:

S. 1713. A bill for the relief of Albert W. Small. Referred to the Committee on the Judiciary.

By Mr. McGOVERN (for himself, Mr. ABOUREZK, Mr. CLARK, Mr. HATHAWAY, Mr. HUMPHREY, Mr. INOUYE, and Mr. Moss):

S. 1714. A bill to establish a task force within the Veterans' Administration to advise and assist in connection with, to consult on, and to coordinate all programs pertaining to veterans of the Vietnam era. Referred to the Committee on Veterans' Affairs.

By Mr. McGOVERN (for himself, Mr. ABOUREZK, Mr. CLARK, Mr. HART, Mr. HATHAWAY, Mr. HUMPHREY, Mr. Mr. INOUYE, and Mr. Moss):

S. 1715. A bill to amend title 10 of the United States Code to establish independent boards to review the discharges and dismissals of servicemen who served during the Vietnam era, and for other purposes. Referred to the Committee on Armed Services.

By Mr. McGOVERN (for himself, Mr. ABOUREZK, Mr. CLARK, Mr. HARTKE, Mr. HATHAWAY, Mr. HUMPHREY, Mr. INOUYE, Mr. Moss, and Mr. CRANSTON):

S. 1716. A bill to amend chapter 49 of title 10, United States Code, to prohibit the inclusion of certain information on discharge certificates, and for other purposes. Referred to the Committee on Armed Services.

By Mr. McGOVERN (for himself, Mr. ABOUREZK, Mr. CLARK, Mr. HART, Mr. INOUYE, and Mr. Moss):

S. 1717. A bill to amend chapter 34 of title 38, United States Code, to provide additional educational benefits to Vietnam era veterans. Referred to the Committee on Veterans' Affairs.

By Mr. McGOVERN (for himself, Mr. ABOUREZK, Mr. CLARK, Mr. INOUYE, and Mr. Moss):

S. 1718. A bill to amend chapter 34 of title 38, United States Code, to permit eligible veterans pursuing full-time programs of education to receive increased monthly educational assistance allowances and have their period of entitlement reduced proportionally. Referred to the Committee on Veterans' Affairs.

By Mr. GRIFFIN:

S. 1719. A bill to amend the Federal Aviation Act of 1958 and the Interstate Commerce Act to authorize reduced-fare transportation on a space-available basis for persons who are sixty-five years of age or older. Referred to the Committee on Commerce.

By Mr. CHURCH:

S. 1720. A bill to amend the Water Resources Planning Act to extend the authority for financial assistance to the States for water resources planning. Referred to the Committee on Interior and Insular Affairs.

By Mr. METCALF (for himself and Mr. MANSFIELD):

S. 1721. A bill to designate certain lands in the Gallatin and Beaverhead National Forests, in Montana, as wilderness. Referred to the Committee on Interior and Insular Affairs.

By Mr. HARTKE (for himself, Mr. PASTORE, Mr. METCALF, Mr. BAYH, Mr. Moss, Mr. MONTOYA, Mr. RANDOLPH, and Mr. TAFT):

S. 1722. A bill to amend the Education of the Handicapped Act to provide tutorial and related instructional services for homebound children through the employment of college students, particularly veterans and other students who themselves are handicapped. Referred to the Committee on Labor and Public Welfare.

By Mr. KENNEDY (for himself and Mr. HART):

S. 1723. A bill to provide for the continued supply of petroleum products to independent oil marketers. Referred to the Committee on Commerce.

By Mr. TUNNEY (for himself, Mr. BAYH, Mr. BENTSEN, Mr. BROOKE, Mr. CASE, Mr. CRANSTON, Mr. DOLE, Mr. EASTLAND, Mr. HASKELL, Mr. HUMPHREY, Mr. JAVITS, Mr. KENNEDY, Mr. McGEE, Mr. McGOVERN, Mr. McINTYRE, Mr. MONTOYA, Mr. PEARSON, Mr. WILLIAMS, and Mr. HART):

S. 1724. A bill to amend title 28, United States Code, to provide more effectively for bilingual proceedings in certain district courts of the United States and for other purposes. Referred to the Committee on the Judiciary.

By Mr. DOMINICK (for himself and Mr. TAFT):

S. 1725. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. GRAVEL:

S. 1726. A bill to provide guidelines and limitations for the classification of information and material, to insure the integrity of the Congress as a separate branch of the Government by preventing the unwarranted interference in congressional functions by the executive and judicial branches, to establish an Office of the General Counsel to the Congress, to require the disclosure of information to Congress by the executive branch, to protect the confidentiality of information and sources of information of the news media, and for other purposes. Referred to the Committee on Government Operations.

By Mr. INOUYE (for himself, Mr. ABOUREZK, Mr. ALLEN, Mr. CRANSTON, Mr. DOMINICK, Mr. ERVIN, Mr. FANNIN, Mr. HOLLINGS, Mr. HUGHES, Mr. PASTORE, Mr. RIBICOFF, Mr. STEVENS, Mr. THURMOND, and Mr. YOUNG):

S. 1727. A bill to incorporate the Pearl Harbor Survivors Association. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCOTT of Pennsylvania:

S. 1711. A bill to amend the Foreign Assistance Act of 1961, and for other purposes. Referred to the Committee on Foreign Relations.

FOREIGN ASSISTANCE ACT OF 1973

Mr. SCOTT of Pennsylvania. Mr. President, I submit today, for appropriate reference, the foreign assistance bill of 1973, to amend the Foreign Assistance Act of 1961 and for other purposes, and ask unanimous consent that it be printed in the RECORD. Mr. President, I also ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

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

S. 1711

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 1973".

DEVELOPMENT LOAN FUND

SEC. 2. Title I of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to the Development Loan Fund, is amended as follows:

(a) In section 202(a), relating to authorization:

(1) immediately after "fiscal year 1972," strike out "and";

(2) immediately after "final year 1973," insert "$201,400,000 for the fiscal year 1974, and $201,400,000 for the fiscal year 1975";

(3) immediately after "June 30, 1972," strike out "and"; and

(4) immediately after "June 30, 1973," insert "June 30, 1974 and June 30, 1975,".

(b) In section 203, relating to fiscal provisions, strike out "for the fiscal year 1970, for fiscal year 1971, for the fiscal year 1972, and for the fiscal year 1973" and insert in lieu thereof "for the fiscal year 1974 and for the fiscal year 1975".

TECHNICAL COOPERATION AND DEVELOPMENT GRANTS

SEC. 3. Title II of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to technical cooperation and development grants, is amended as follows:

(a) In section 211(a), relating to general authority, in the last sentence immediately after the word "assistance", insert the word "directly".

(b) In section 212, relating to authorization, strike out "$175,000,000 for the fiscal year 1972 and $175,000,000 for the fiscal year 1973" and insert in lieu thereof "$165,650,000 for the fiscal year 1974 and $165,500,000 for the fiscal year 1975".

(c) In section 214, relating to authorization for American schools and hospitals abroad:

(1) subsection (c) is amended to read as follows:

"(c) To carry out the purposes of this section there is authorized to be appropriated to the President for the fiscal year 1974 $10,000,000, and for the fiscal year 1975 $10,000,000, which amounts are authorized to remain available until expended."; and

(2) subsection (d) is repealed.

HOUSING GUARANTIES

SEC. 4. Title III of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to housing guaranties, is amended as follows:

(a) In section 221, relating to worldwide housing guarantees, strike out "$205,000,000" and insert in lieu thereof "$480,000,000".

(b) In section 222(c), relating to Latin American housing guarantees, strike out "$550,000,000" and insert in lieu thereof "$594,900,000".

(c) In section 223(i) relating to general provisions, strike out "June 30, 1974" and insert in lieu thereof "June 30, 1976".

OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 5. Title IV of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to the Overseas Private Investment Corporation, is amended as follows:

(a) In section 231(d), relating to insurance operations, immediately after the word "risks" insert the words "with other insurers, public or private, and seek to assure that with respect to insurance issued after enactment of the Foreign Assistance Act of 1973 all costs of the insurance program will, over the long term, be borne by the private users of the services".

(b) In section 231(i), relating to the protection of the economic interests of the United States, immediately after the words "balance-of-payments" insert the words "and employment".

(c) In section 234(c), relating to direct investment, strike out "(1) accept as evidence of indebtedness debt securities convertible to stock, but such debt securities shall not be converted to stock while held by the Corporation" and insert in lieu thereof "(1) in its financing programs, acquire debt securities convertible to stock or rights to acquire stock, but such debt securities or rights shall not be converted to stock while held by the Corporation".

(d) In section 235(a)(4), relating to issuing authority, strike out "June 30, 1974" and insert in lieu thereof "June 30, 1976".

(e) In section 239(d), relating to general provisions and powers, immediately after the phrase "in the conduct of its business" insert the words "including, notwithstanding any provision of law, contracts of coinsurance and reinsurance with insurance companies, financial institutions, or others, or groups thereof, employing the same, where appropriate as its agent in the issuance and servicing of insurance, coinsurance and reinsurance and the adjustment of claims arising thereunder, and pooling arrangements and similar agreements with other national or multinational insurance or financing agencies or groups thereof".

(f) In section 240(h), relating to agricultural credit and self-help community development projects, strike out "June 30, 1973" and insert in lieu thereof "June 30, 1975".

(g) In section 240A(b), relating to reports to the Congress, strike out "March 1, 1974" and insert in lieu thereof "February 1, 1975".

ALLIANCE FOR PROGRESS

SEC. 6. Section 252(a) of title VI of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to authorization, is amended as follows:

(a) Strike out "for the fiscal year 1972, $295,000,000, and for the fiscal year 1973, $295,000,000" and insert in lieu thereof "for the fiscal year 1974, $236,100,000 and for the fiscal year 1975, $236,100,000".

(b) Strike out "$88,500,000 for each such fiscal year" and insert in lieu thereof $86,100,000 for each such fiscal year".

PROGRAMS RELATING TO POPULATION GROWTH

SEC. 7. Section 292 of title X of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to authorization, is amended by striking out "1972 and 1973" and inserting in lieu thereof "1974 and 1975".

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 8. Section 302 of chapter 3 of part I of the Foreign Assistance Act of 1961, relating to authorization, is amended as follows:

(a) In subsection (a), strike out "for the fiscal year 1972, $138,000,000 and for the fiscal year 1973, $138,000,000" and insert in lieu thereof, "for the fiscal year 1974, $124,800,000 and for the fiscal year 1975, such sums as may be necessary".

(b) In subsection (b)(2), strike out "for use in the fiscal year 1972, $15,000,000, and for use in the fiscal year 1973, $15,000,000" and insert in lieu thereof "for use in the fiscal year 1974, $15,000,000, and for use in the fiscal year 1975, $15,000,000".

CONTINGENCY FUND

SEC. 9. Section 451(a) of chapter 5 of part I of the Foreign Assistance Act of 1961, relating to the contingency fund, is amended as follows:

(a) Strike out "for the fiscal year 1972 not to exceed $30,000,000, and for the fiscal year 1973 not to exceed $30,000,000" and insert in lieu thereof "for the fiscal year 1974 not to exceed $30,000,000, and for the fiscal year 1975 not to exceed $30,000,000".

(b) Strike out all that follows immediately after the colon through the end of the subsection and insert in lieu thereof the following:

"Provided, That, in addition to the amounts authorized to be appropriated by this subsection, there is authorized to be appropriated such additional amounts, as may be required from time to time to provide relief, rehabilitation, and related assistance in the case of extraordinary disaster situations. Amounts appropriated under this section are authorized to remain available until expended.".

INTERNATIONAL NARCOTICS CONTROL

SEC. 10. Section 482 of chapter 8 of part I of the Foreign Assistance Act of 1961, relating to authorization, is amended by striking out "1973" and all that follows and inserting in lieu thereof "1974, and for the fiscal year 1975 such sums as may be necessary, which amounts are authorized to remain available until expended.".

MILITARY ASSISTANCE

SEC. 11. 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 "$652,000,000 for the fiscal year 1974".

(b) In section 506(a), relating to special authority, strike out the words "the fiscal year 1972" wherever they appear and insert in lieu thereof "any fiscal year".

(c) Section 514 is hereby repealed.

SECURITY SUPPORTING ASSISTANCE

SEC. 12. Section 532 of chapter 4 of part II of the Foreign Assistance Act of 1961, relating to authorization, 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 1974 not to exceed $100,000,000".

INTERNATIONAL MILITARY EDUCATION AND TRAINING

SEC. 13. (a) Part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new chapter:

"Chapter 5—INTERNATIONAL MILITARY EDUCATION AND TRAINING

"SEC. 541. STATEMENT OF PURPOSE.—The purpose of this chapter is to establish an international military education and training program which will:

(1) improve the ability of friendly foreign countries, through effective military education and training programs relating particularly to United States military methods, procedures, and techniques, to utilize their own resources and equipment and systems of United States origin with maximum effectiveness for the maintenance of their defensive strength and internal security, thereby contributing to enhanced professional military capability and to greater self-reliance by the armed forces of such countries.

(2) encourage effective and mutually beneficial relationships and enhance understanding between the United States and friendly foreign countries in order to maintain and foster the environment of international peace and security essential to social, economic and political progress; and

(3) promote increased understanding by friendly foreign countries of the policies and objectives of the United States in pursuit of the goals of world peace and security.

"SEC. 542. GENERAL AUTHORITY.—The President is authorized in furtherance of the purposes of this chapter, to provide military education and training by grant, contract, or otherwise including—

(1) attendance by military and related civilian personnel of friendly foreign countries at military educational and training facilities in the United States (other than the Service Academies) and abroad;

(2) attendance by military and related civilian personnel of friendly foreign countries in special courses of instruction at schools and institutions of learning or research in the United States and abroad;

(3) observation and orientation visits by foreign military and related civilian personnel to military facilities and related activities in the United States and abroad; and

(4) activities that will otherwise assist and encourage the development and improvement of the military education and training of members of the armed forces and related civilian personnel of friendly foreign countries so as to further the purposes of this chapter, including but not limited to the assignment of noncombatant military training instructors, and the furnishing of training aids, technical, educational and informational publications and media of all kinds.

"SEC. 543. AUTHORIZATION.—Appropriations to the President of funds to carry out the purposes of this chapter are hereby authorized. Such appropriations are authorized to remain available until expended.

"SEC. 544. ANNUAL REPORTS.—The President shall submit no later than December 31 each year a report to the Congress of activities carried on and obligations incurred during the immediately preceding fiscal year. In furtherance of the purposes of this chapter each such report shall contain a full description of the program and the funds obligated with respect to each country concerning which activities have been carried on in furtherance of the purposes of this chapter."

(b) The Foreign Assistance Act of 1961, as amended, is amended as follows:

(1) Section 503(d) of said Act, relating to general authority, is amended by striking out the comma and the words "including those relating to training or advice".

(2) Section 504(a) of said Act, relating to authorization, is amended by striking out "(other than training in the United States)".

(3) Section 510 of said Act, relating to restrictions on training foreign military students, is repealed.

(4) Section 622 of said Act, relating to coordination with foreign policy, is amended as follows:

(i) In subsection (b), immediately after the phrase "(including civic action)" insert the words "and military education and training";

(ii) Subsection (c) is amended to read as follows:

"(c) Under the direction of the President, the Secretary of State shall be responsible for the continuous supervision and general direction of economic assistance, military assistance and military education and training programs, including but not limited to determining whether there shall be a military assistance (including civic action) or a military education and training program for a country and the value thereof, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.".

(5) Section 623, relating to the Secretary of Defense, is amended as follows:

(i) In subsection (a)(4), immediately after the word "military," insert the words "and related civilian";

(ii) In subsection (a)(6), immediately after the word "assistance", insert a comma and the words "education and training".

(6) Section 632, relating to allocation and reimbursement among agencies, is amended by inserting in subsections (a), (b) and (e) immediately after the word "articles", wherever it appears, a comma and the words "military education and training";

(7) Section 636, relating to provisions on uses of funds, is amended as follows:

(i) in subsection (g)(1), immediately after the word "articles", insert a comma and the words "military education and training"; and

(ii) in subsection (g)(2), strike out the word "personnel" and insert in lieu thereof the words "and related civilian personnel".

(8) Section 644 of said Act, relating to definitions, is amended as follows:

(i) subsection (f) is amended to read as follows:

"(f) 'Defense service' includes any service, test, inspection, repair publication or technical or other assistance or defense information used for the purposes of furnishing military assistance, but shall not include military educational and training activities under chapter 5 of part II."; and

(ii) there is added at the end thereof the following new subsection:

"(n) 'Military education and training' includes formal or informal instruction of foreign students in the United States, contract technicians, contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aids, orientation, and military advice to foreign military units and forces.".

(c) Except as may be expressly provided to the contrary in this Act, all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken or entered into under authority of any provision of law amended or repealed by this section shall continue in full force and effect until modified by appropriate authority.

(d) Funds made available pursuant to other provisions of law for foreign military educational and training activities shall remain available for obligation and expenditure for their original purposes in accordance with the provisions of law originally applicable thereto, or in accordance with the provisions of law currently applicable to those purposes.

ADMINISTRATIVE PROVISIONS

SEC. 14. Section 625 of chapter 2 of part III of the Foreign Assistance Act of 1961, relating to employment of personnel, is amended by adding at the end thereof the following new subsection:

"(k)(1) In accordance with such regulations as the President may prescribe, the following categories of personnel who serve in the Agency for International Development shall become participants in the Foreign Service Retirement and Disability System:

"(A) Persons serving under unlimited ap-

pointments in employment subject to section 625(d)(2) of this Act as Foreign Service Reserve officers and as Foreign Service staff officers and employees; and

"(B) A person serving in a position to which he was appointed by the President, whether with or without the advice and consent of the Senate, provided that (1) such person shall have served previously under an unlimited appointment pursuant to said section 625(d)(2) or a comparable provision of predecessor legislation to this Act, and (2) following service specified in proviso (1) such person shall have served continuously with the Agency for International Development or its predecessor agencies only in positions established under the authority of sections 624(a) and 631(b) or comparable provisions of predecessor legislation to this Act.

"(2) Upon becoming a participant in the Foreign Service Retirement and Disability System, any such officer or employee shall make a special contribution to the Foreign Service Retirement and Disability Fund in accordance with the provisions of section 852 of the Foreign Service Act of 1946, as amended. Thereafter, compulsory contributions will be made with respect to each such participating officer or employee in accordance with the provisions of section 811 of the Foreign Service Act of 1946, as amended.

"(3) The provisions of section 636 and title VIII of the Foreign Service Act of 1946, as amended, shall apply to participation in the Foreign Service Retirement and Disability System by any such officer or employee.

"(4) If an officer who became a participant in the Foreign Service Retirement and Disability System under paragraph (1) of this subsection is appointed by the President, by and with the advice and consent of the Senate, or by the President alone, to a position in any Government agency, any United States delegation or mission to any international organization, in any international commission, or in any international body, such officer shall not, by virtue of the acceptance of such an appointment, lose his status as a participant in the system.

"(5) Any such officer or employee who becomes a participant in the Foreign Service Retirement and Disability System under paragraph (1) of this subsection, shall be mandatorily retired (a) at the end of the month in which he reaches age seventy or (b) earlier if, during the third year after the effective date of this subsection, he attains age sixty-four or if he is over age sixty-four; during the fourth year at age sixty-three; during the fifth year at age sixty-two; during the sixth year at age sixty-one; and thereafter, at the end of the month in which he reaches age sixty: *Provided,* That no participant shall be mandatorily retired under this paragraph while serving in a position to which appointed by the President, by and with the advice and consent of the Senate. Any participant who completes a period of authorized service after reaching the mandatory retirement age specified in this paragraph shall be retired at the end of the month in which such service is completed.

"(6) Whenever the President deems it to be in the public interest, he may extend any participant's service for a period not to exceed five years after the mandatory retirement date of such officer or employee.

"(7) This subsection shall become effective on the first day of the first month which begins more than one year after the date of its enactment, except that any officer or employee who, before such effective date, meets the requirements for participation in the Foreign Service Retirement and Disability System under paragraph (1) of this subsection may elect to become a participant before the effective date of this subsection. Such officer or employee shall become a participant on the first day of the second month following the date of his application for earlier participation. Any officer or employee who becomes a participant in the system under the provisions of paragraph (1) of this subsection, who is age fifty-seven or over on the effective date of this subsection, may retire voluntarily at any time before mandatory retirement under paragraph (5) of this subsection and receive retirement benefits under section 821 of the Foreign Service Act of 1946, as amended.

"(8) Any officer or employee who is separated for cause while a participant in the Foreign Service Retirement and Disability System pursuant to this subsection, shall be entitled to benefits in accordance with subsections 637(b) and (d) of the Foreign Service Act of 1946, as amended. The provisions of section 625(e) of this Act shall apply to participants in lieu of the provisions of sections 633 and 634 of the Foreign Service Act of 1946, as amended."

SEC. 15. Section 637(a) of chapter 2 of part III of the Foreign Assistance Act of 1961, relating to authorizations for administrative expenses, is amended by striking out "for the fiscal year 1972, $50,000,000, and for the fiscal year 1973, $50,000,000," and inserting in lieu thereof "for the fiscal year 1974, $53,100,000, and for the fiscal year 1975, $53,100,000".

SEC. 16. Section 639 of chapter 2 of part III of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 639. Famine and Disaster Relief. Notwithstanding the provisions of this or any other Act, the President is authorized to furnish famine or disaster relief or rehabilitation or related assistance abroad on such terms and conditions as he may determine."

INDOCHINA POSTWAR RECONSTRUCTION

SEC. 17. The Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new part:

"PART V

"CHAPTER 1. POLICY

"SEC. 801. STATEMENT OF POLICY. The Congress, recognizing the importance of a stable peace in Indochina to the achievement of a lasting peace in Asia and throughout the world, believes that the United States can further these objectives by contributing to healing the wounds of war and by assisting the countries and peoples of Indochina in the realization of human aspirations in a peaceful manner. It is the sense of Congress that the objectives of a stable and lasting peace would be served by a program of humanitarian relief and reconstruction assistance in Indochina.

"CHAPTER 2. GENERAL AUTHORITY AND AUTHORIZATION

"SEC. 821. GENERAL AUTHORITY. The President is authorized to furnish, on such terms and conditions as he may determine, assistance for relief and reconstruction of South Vietnam, Cambodia and Laos, including humanitarian assistance to refugees, civilian war casualties and other persons disadvantaged by hostilities or conditions related to those hostilities in South Vietnam, Cambodia and Laos.

"SEC. 822. *Authorization.* There is authorized to be appropriated to the President to carry out the purposes of this chapter, in addition to funds otherwise available for such purposes, for the fiscal year 1974 not to exceed $632,000,000, which amount is authorized to remain available until expended.

"CHAPTER 3—CONSTRUCTION WITH OTHER LAWS

"SEC. 831. *Authority.* All references to part I, whether heretofore or hereafter enacted, shall be deemed to be references also to this part unless otherwise specifically provided. The authorities available to administer part I of this Act shall be available to administer programs authorized in this part.".

FOREIGN MILITARY SALES

SEC. 18. The Foreign Military Sales Act, as amended 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 24(a) of chapter 2, relating to guaranties, strike out "doing business in the United States".

(c) In section 24(c) of chapter 2, relating to guaranties:

(1) strike out "pursuant to section 31" and insert in lieu thereof "to carry out this Act"; and

(2) insert "principal amount of" immediately before the words "contractual liability" wherever they appear.

(d) 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 "$525,000,000 for the fiscal year 1974".

(e) In section 31(b) of chapter 3, relating to authorization, strike out "(excluding credits covered by guaranties issued pursuant to section 24(b) and of the face amount of guaranties issued pursuant to sections 24(a) and (b) shall not exceed $550,000,000 for the fiscal year 1972, of which amount not less than $300,000,000 shall be available to Israel only" and insert in lieu thereof "and of the principal amount of loans guaranteed pursuant to section 24(a) shall not exceed $760,000,000 for the fiscal year 1974".

(f) In section 33(a) of chapter 3, relating to aggregate regional ceilings:

(1) strike out "of cash sales pursuant to sections 21 and 22,";

(2) strike out "(excluding credits covered by guaranties issued pursuant to section 24(b)), of the face amount of contracts of guaranty issued pursuant to sections 24(a) and (b)" and insert in lieu thereof "of the principal amount of loans guaranteed pursuant to section 24(a)"; and

(3) strike out "$100,000,000" and insert in lieu thereof "$150,000,000".

(g) In section 33(b) of chapter 3, relating to aggregate regional ceilings:

(1) strike out "of cash sales pursuant to sections 21 and 22,";

(2) strike out "(excluding credits covered by guaranties issued pursuant to section 24(b)), of the face amount of contracts of guaranty issued pursuant to sections 24(a) and (b)" and insert in lieu thereof "of the principal amount of loans guaranteed pursuant to section 24(a)".

(h) In section 33(c) of chapter 3, relating to aggregate regional ceilings:

(1) strike out "expenditures" and insert in lieu thereof "amounts of assistance, credits, guaranties, and ship loans";

(2) strike out "of cash sales pursuant to sections 21 and 22,"; and

(3) strike out "(excluding credits covered by guaranties issued pursuant to section 24(b)), of the face amount of contracts of guaranty issued pursuant to sections 24(a) and (b)" and insert in lieu thereof "of the principal amount of loans guaranteed pursuant to section 24(a)".

(i) In section 36 of chapter 3, relating to reports on commercial and governmental military exports, subsection (a) is hereby repealed and subsections (b) and (c) are redesignated as (a) and (b), respectively.

(j) In section 37(b) of chapter 3, relating to fiscal provisions, insert after "indebtedness" the following: "under section 24(b) (excluding such portion of the sales proceeds as may be required at the time of disposition to be obligated as a reserve for payment of claims under guaranties issued pursuant to section 24(b), which sums are hereby made available for such obligations)".

A SECTION-BY-SECTION ANALYSIS OF THE PROPOSED FOREIGN ASSISTANCE ACT OF 1973

I. INTRODUCTION

The proposed Foreign Assistance Act of 1973 (hereinafter referred to as the "Bill") is an amendment to the Foreign Assistance Act of 1961, as amended (hereinafter referred to as the "Act"). The Bill also amends the Foreign Military Sales Act (hereinafter referred to as "the FMSA").

The principal new substantive provisions of the Bill are: (a) a new Part V dealing with Indochina Reconstruction, (b) a new chapter in Part II providing for a program of International Military Education and Training, (c) a new provision permitting personnel of the Agency for International Development ("A.I.D.") to participate in the Foreign Service Retirement System, and (d) provisions permitting greater flexibility in the conduct of disaster relief activities, operations of the Overseas Private Investment Corporation, and Foreign Military Sales programs.

The Bill makes authorization for two years for all development accounts and for narcotics control, and provides a one year authorization for Indochina reconstruction and security assistance programs.

II. PROVISIONS OF THE BILL DEVELOPMENT LOAN FUND

Section 2(a)—Authorization

(1) and (2). These provisions amend section 202(a) of the Act to provide authorizations for fiscal years 1974 and 1975 for development loans in the amount of $201,400,000 for each year.

(3) and (4). These provisions make applicable through fiscal year 1975 the second proviso in section 202(a), requiring that not less than 50 percent of the funds appropriated for development loans be used to encourage economic development through private enterprise.

Section 2(b)—Fiscal Provisions

This subsection extends the provisions of section 203 through fiscal year 1975.

Technical Cooperation and Development Grants

Section 3(a)—Authorization

This subsection adds the word "directly" to the sentence which limits to forty the number of countries to which technical assistance may be furnished under title II. The purpose of this amendment is to make clear that the forty country limitation applies only to bilateral assistance furnished directly by the government of the United States to the governments of less developed countries and is not applicable to assistance to private organizations, such as the International Executive Service Corps, which conduct programs in countries to which the United States government does not furnish bilateral assistance. The amendment is also intended to make clear that programs of research and experimentation authorized under section 241 of the Act are not considered assistance to countries within the meaning of section 211 or any other section of the Act.

Section 3(b)—Authorization

This subsection amends section 212 of the Act to authorize the appropriation of $165,650,000 for fiscal year 1974 and $165,650,000 for fiscal year 1975 for technical cooperation and development grants.

Section 3(c)—American Schools and Hospitals Abroad

(1) This provision amends section 214(c) of the Act to provide authorizations in the amount of $10,000,000 for fiscal year 1974 and $10,000,000 for fiscal year 1975 for assistance to American schools and hospitals abroad. It also eliminates unnecessary language pertaining to expenditures of funds appropriated for fiscal year 1970.

(2) This provision repeals subsection 214(d) which pertained to authorization of excess foreign currency appropriations for fiscal year 1970 and is no longer necessary.

Housing Guaranties

Section 4(a)—Worldwide Housing Guaranties

This subsection amends section 221 of the Act by increasing to $480,000,000 the amount of worldwide housing investment guaranty authority.

Section 4(b)—Housing Projects in Latin American Countries

This subsection amends subsection 222(c) of the Act by increasing to $594,900,000 the amount of Latin American housing guaranty authority.

Section 4(c)—General Provisions

This subsection amends subsection 223(i) of the Act to make housing guaranty authority available through June 30, 1976.

Overseas Private Investment Corporation

Section 5(a)—Risk Management and Risk Sharing

This section amends section 231(d) to strengthen OPIC's existing mandates to conduct its insurance operations with due regard to risk management and to share its insurance risks by confirming that OPIC's risk-sharing may be with other insurers, public or private, and by committing OPIC to seek in future insurance underwritings to assure that the costs of the program will be fully covered over the long term by the private users of the program.

Section 5(b)—Economic Interests of the United States

This section amends section 231(i) of the Act by specifying U.S. employment interests, as well as U.S. balance-of-payments interests, in the consideration of the effects of a proposed project on the U.S. economy.

Section 5(c)—Stock Rights

This section amends section 234(c) of the Act to permit the Corporation to acquire in its financing operations, warrants and other rights to acquire stock, but provides that such rights may not be exercised while held by OPIC. This change was adopted by the Senate in the Foreign Assistance Act of 1972 which for other reason was delayed in its enactment by Congress.

The amendment would not allow OPIC to purchase stock. Under present law, OPIC may acquire debt securities convertible to stock (for example, convertible debentures) and sell them to investors, but may not convert them to stock while they are held by OPIC. OPIC has found that rights to acquire stock are more flexible and more popular as a financing tool than convertible debt securities and that borrowers in less developed countries are often reluctant to issue convertible debt securities because of the legal technicalities associated with them. With broader latitude as to the form of stock rights OPIC could obtain and sell, OPIC would be able to spur private local participation to OPIC-financed projects because potential purchasers could be offered a choice of an equity or debt position is a project. This would be especially attractive to small financial institutions which might be reluctant to purchase debt securities containing complex conversion features.

The amendment also would make it clear that the authority to receive convertible debt securities and rights to acquire stock applies to all of OPIC's financing operations, that is to investment guaranties as well as direct loans.

Section 5(d)—Issuing Authority

This section would amend section 235(a)(4) of the Act to extend OPIC's investment insurance and guaranty authority from June 30, 1974 until June 30, 1976.

The Foreign Assistance Act of 1969, which was enacted December 30, 1969, authorized extension of the 25-year old political risk insurance program and the extended risk guaranty program for five years from June 30, 1969 and provided for the establishment of the Overseas Private Investment Corporation to operate these programs. The five-year extension of the insurance and guaranty programs was intended to provide a reasonable period for testing of the management of the programs by a public corporation and to determine the feasibility of further steps toward private management and financing of some or all of OPIC's services.

Because of the delayed enactment of the legislation and the further delay of one year in establishing OPIC, the actual period of testing will be only about three years when OPIC is scheduled to submit a report to the Congress next March and only three and one-half years when the present insurance and guaranty authorities expire on June 30, 1974. More time will be needed to establish a record of the new OPIC policies on which to base negotiation of possible arrangements for transferring parts of the program to private organizations, and to permit informed judgment of whether and how the program should be recast in long-term legislation. Consequently, an interim extension of two years is proposed, to June 30, 1976, consistent with the two-year extension of other chapter 2 programs sought by this Bill. (In addition, as provided in section 5(g) of this Bill, the deadline for OPIC's submission of a report to Congress analyzing the possibility of transferring all or part of its activities to private United States citizens or organizations would be extended 11 months, to no later than February 1, 1975. This would allow time for consultation and legislation based on the report before expiration of the authorities.)

Section 5(e)—General Provisions and Powers

This section would amend section 239(d) to clarify and expand OPIC's authority to enter into coinsurance and reinsurance agreements with private insurance companies and others, and to enter into pooling arrangements with other national or multinational insurance and financing agencies. The first part of this provision is similar to the authority contained in the Export-Import Bank Act of 1945, as amended. International risk-pooling arrangements can serve common interests by strengthening deterrence against confiscatory treatment of foreign investors. Risk-sharing with private United States insurance companies is an essential element of experimental steps toward private participation in OPIC's operations, now being discussed with the U.S. insurance industry.

Section 5(f)—Agricultural Credit and Self-Help Community Development Projects

This section would amend section 240(h) to extend for two years—to June 30, 1975—the authority for OPIC to establish pilot loan guaranty programs in five Latin American countries to encourage private banks and other local credit institutions to make agricultural and community development loans to organized groups and individuals who have been unable to obtain credit on reasonable terms. Experience in two years of pilot operation demonstrated the need for the participation of central banks in the program in order to assure increased lending capacity and to induce private banks to engage in such small scale lending. The extension would allow time to test the new system, which could not be installed until early 1973.

Section 5(g)—Reports to the Congress

This section amends section 240A(b) to extend for 11 months, to no later than February 1, 1975, the deadline for submission to the Congress of an analysis of the possibilities of transferring all or part of OPIC's activities to private United States citizens, corporations, or other associations. The reasons for this change are set forth in the analysis of section 5(d) above.

Alliance for Progress

Section 6—Authorization

(a) This subsection amends subsection 252(a) of the Act by authorizing the appropriation of $236,100,000 for fiscal year 1974 and $236,100,000 for fiscal year 1975 to carry out development lending and technical assistance in Latin America.

(b) This subsection amends subsection 252(a) of the Act by limiting the amount of the total Alliance for Progress authorization which may be used for technical assistance to $86,100,000 for each of the fiscal years 1974 and 1975.

Programs relating to population growth

Section 7—Authorization

This section amends section 292 of the Act by continuing for fiscal years 1974 and 1975 the requirement that at least $125,000,000 of all funds made available for carrying out Part I of the Act be available only for programs relating to population growth.

International organization and programs

Section 8—Authorization

(a) This subsection amends subsection 302(a) of the Act by authorizing the appropriation of $124,800,000 for the fiscal year 1974 and such sums as may be necessary for the fiscal year 1975 grant contributions to international organizations.

(b) This subsection amends subsection 302(b)(2) by authorizing the appropriation of $15,000,000 for each of the fiscal years 1974 and 1975 for grants for Indus Basin Development.

Contingency fund

Section 9—Authorization

(a) This subsection amends section 451 of the Act, relating to contingency funds, by authorizing $30,000,000 for fiscal year 1974, and $30,000,000 for fiscal year 1975.

As in the past, disaster relief and reconstruction assistance furnished under this title would be limited to short-term assistance designed to alleviate and repair the consequences of a natural or man-made catastrophe rather than providing for long-term development assistance.

(b) This subsection provides a permanent authorization for appropriations for disaster relief assistance in the case of extraordinary disasters of large magnitude. This authority would permit prompt appropriations of funds to meet emergency requirements in those cases where the assistance required is in excess of the amounts made available by the Contingency Fund or by other accounts.

International narcotics control

Section 10—Authorization

This section amends section 482 of the act by authorizing the appropriation of $42,500,000 for international narcotics control for the fiscal year 1974 and such sums as may be necessary for the fiscal year 1975.

Military assistance

Section 11

(a) *Authorization.* This subsection amends section 504(a) of the Act to authorize the appropriation of $652,000,000 for the fiscal year 1974.

(b) *Special Authority.* This subsection amends section 506(a) of the Act to extend without fiscal year limitation the President's special authority to order defense articles and defense services subject to subsequent reimbursement. This authority has previously been renewed from year to year in annual authorization acts.

(c) *Local Currency Deposits.* This subsection repeals section 514 of the Act which requires recipients of grant military assistance, including excess defense articles, to deposit in local currency an amount equal to ten percent of the value of such assistance for use by the United States to pay its local currency official costs in that country.

Security supporting assistance

Section 12—Authorization

This section amends section 532 of the Act to provide an authorization for security supporting assistance for fiscal year 1974 of $100,000,000.

International military education and training

Section 13

(a) *International Military Education and Training Chapter.*

This subsection adds to Part II of the Act a new chapter establishing a program of international military education and training, separate and distinct from the military assistance program which will henceforth be concentrated on materiel assistance. The chapter consists of four sections.

Section 541 contains a statement of the chapter's purpose, which emphasizes the differences between objectives of this new program and those of the military assistance program.

Section 542 authorizes the President to provide military education and training by grant, contract, or otherwise and describes the kind of activities that can be engaged in under this chapter. These activities include attendance by foreign military personnel and related civilians at U.S. and foreign military facilities for education or training purposes. This includes international military educational facilities such as those under NATO auspices. Also permitted is attendance by such foreign personnel at pertinent courses of instruction at nonmilitary public and private educational and research institutions. In addition, observation and orientation visits by foreign military and related civilian personnel would be provided under this chapter. Finally, section 542 provides for other activities to further the purposes of the chapter, such as the furnishing of noncombat military training instructors, media aids and publications.

Section 543 authorizes the appropriation of funds to the President to carry out the purposes of the chapter. Consistent with the establishment of a new, permanent authority for international military education and training, the authorization is not subject to a dollar ceiling or fiscal year limitation.

Section 544 requires the President to submit annual reports to the Congress concerning the activities carried on and obligations incurred for international military education and training on a country by country basis.

(b) *Amendments to the Foreign Assistance Act.*

This subsection amends the Act to eliminate all references to training from chapter 2 of Part II, which deals with military assistance, because military education and training programs will no longer be conducted as military assistance. Thus, for example, statutory requirements and restrictions applicable to "military assistance" (e.g. section 514, section 653, etc.) would not be applicable to military education and training programs under this chapter. The subsection also amends Part III of the Act, containing general, administrative, and miscellaneous provisions, to clarify the application of those provisions to the new chapter on international military education and training. The specific amendments made by this subsection are:

(1) This provision deletes the references to training or advice from section 503(d) of the Act, which authorizes the assignment of members of the U.S. Armed Forces to noncombatant duties.

(2) This provision deletes the exclusion of "training only" countries from the forty country limitation on the number of countries that can receive military assistance contained in section 504(a) of the Act.

(3) This provision repeals the restriction on the number of foreign military students to be trained in the United States. According to section 510 of the Act, this number cannot exceed in any fiscal year the number of civilians brought to the United States in the previous fiscal year under the Mutual Educational and Cultural Exchange Act of 1961.

(4) This provision makes clear that the roles of the Chief of the United States Diplomatic Mission and of the Secretary of State with respect to international military education and training will be the same as they are for military materiel assistance programs. This is achieved by inserting a reference to military education and training after the reference to military assistance in subsections (b) and (c) of section 622 of the Act.

(5) This provision extends the supervisory responsibilities of the Secretary of Defense under section 623(a)(4) of the Act to military-related civilian personnel, consistent with the scope of the new chapter on international military education and training. It also makes the supervisory responsibility of the Secretary of Defense over Department of Defense functions relating to military assistance expressly applicable to military education and training as well.

(6) This provision makes the provisions of section 632 of the Act, concerning reimbursement among agencies, expressly applicable to military education and training in the same manner as that section applies to military materiel assistance.

(7) This provision amends sections 636(g) of the Act to ensure that Part II funds are available for administrative, extraordinary and operating expenses incurred in furnishing military education and training. It also makes Part II funds available for reimbursement of expenses of military-related civilian personnel in connection with orientation visits, consistent with the scope of the new chapter on international military education and training.

(8) This provision modifies the definition of defense service in section 644(f) of the Act so as to exclude references to training. By this change, the authority to furnish training as military assistance under chapter 2 of Part II of the Act will be terminated. In addition, the definition of training formerly included within the definition of defense service is made a separate subsection, subsection 644(n), which will apply to the new chapter on international military education and training. The changes made by this provision are not intended to affect the sale of training as a design service under the FMSA.

(c) *Preservation of Existing Actions.*

This subsection makes clear that the amendments to the Act affected by this section will not call into question the continuing validity of actions taken under authority of any provision amended or repealed by this section, such as regulations and contracts.

(d) *Interim Funding.*

This subsection authorizes funds heretofore made available for activities which will be funded in the future under the new international military education and training chapter to be obligated and expended either in accordance with the originally ap-

plicable authority or under the new authority.

Administrative provisions

Section 14—Employment of Personnel

This section adds a new subsection (k) to section 625 of the Act to authorize the participation in the Foreign Service Retirement and Disability System of certain categories of A.I.D. Foreign Service Personnel. Under existing law, all A.I.D. employees, both Civil and Foreign Service, are participants in the Civil Service Retirement System.

The subsection equalizes conditions of overseas career service among the foreign affairs agencies. Of the three principal agencies, States, USIA, and A.I.D., only A.I.D. foreign service personnel do not participate in the Foreign Service Retirement System.

This amendment would not create a permanent foreign assistance career service and would not prejudice any future action that the Administration or the Congress may wish to take with respect to foreign assistance.

Paragraph (k)(1) designates the categories of personnel serving in the Agency for International Development who would participate in the Foreign Service Retirement and Disability System. Included among these categories are Foreign Service staff officers and employees who are serving under unlimited appointments. The Department of State is submitting proposed legislation that would eliminate a ten years prior service requirement for Foreign Service staff personnel in the Department of State and USIA. The Bill is consistent with that proposed legislation. It is the intention of this subsection to achieve comparable standards for retirement participation by Foreign Service staff personnel in the Department of State, USIA and A.I.D.

Paragraph (k)(2) provides that persons who become participants in the Foreign Service Retirement System shall make a special contribution to the Foreign Service Retirement and Disability Fund in accordance with section 852 of the Foreign Service Act of 1946. This means that such persons' prior contributions to another Federal retirement system, generally, the Civil Service Retirement System, will be transferred to the Foreign Service Retirement and Disability Fund. Thereafter, the normal compulsory contributions will be made to the Foreign Service Retirement and Disability Fund.

Paragraph (k)(3) provides for the application of section 636 of the Foreign Service Act of 1946, as amended, to the A.I.D. participants in the Foreign Service Retirement System. Section 636 provides for the voluntary retirement of a participant who has attained the age of 50 years and who has rendered 20 years of service.

Paragraph (k)(4) continues a participant's coverage under the Foreign Service Retirement System whenever such participant might be assigned to positions not covered by the system. This authority is similar to that contained in section 571(b) of the Foreign Service Act of 1946, as amended.

Paragraph (k)(5) is a transitional provision. It provides for the gradual retirement over a 7-year period of participants in the system who are above the Foreign Service mandatory retirement age at the time they become participants in the system. The interim schedule for the gradual transition to the Foreign Service Retirement System is similar to the transition formula authorized when the staff personnel of the State Department were transferred to the Foreign Service Retirement System pursuant to the Foreign Service Act amendments of 1960, and when U.S. Information Agency Foreign Service Information Officers, Foreign Service Reserve Officers, unlimited, and staff officers and employees were transferred under the provisions of Public Law 90–494, enacted in 1968. A proviso exempts Presidential appointees confirmed by the Senate, while so serving, from the otherwise applicable mandatory retirement age.

Paragraph (k)(6) provides that the President may, whenever he deems it to be in the public interest, extend any participant's service for a period not to exceed 5 years after the mandatory retirement date for such participant. It is anticipated that this authority will be delegated to the Administrator A.I.D.

Paragraph (k)(7) provides that the subsection will become effective on the first day of the first month which begins more than one year after the date of enactment. It also provides that an eligible Foreign Service Reserve Officer or staff officer or employee may elect to become a participant before the mandatory requirements of the subsection become effective. Finally this paragraph provides for another transitional provision similar to that provided for Foreign Service staff personnel of the State Department in 1960, and for USIA Foreign Service Information Officers, Foreign Service Reserve Officers, unlimited, and staff officers and employees in 1968.

Paragraph (k)(8) provides that an A.I.D. participant in the Foreign Service Retirement System who is separated for cause shall be entitled to the benefits set forth in subsections 637(b) and (d) of the Foreign Service Act of 1946, as amended. Generally, these subsections set forth conditions under which contributions to the Foreign Service Retirement and Disability Fund may be refunded or continued in the system following separation for cause. This paragraph also provides that the selection-out authority contained in subsection 625(e) of the Foreign Assistance Act shall apply to A.I.D. participants in the Foreign Service Retirement System rather than the selection-out authority contained in the Foreign Service Act of 1946, as amended.

Section 15—Administrative Expenses

This section amends section 637 of the Act by providing an authorization for administrative expenses for the agency administering Part I of $53,100,000 for fiscal year 1974 and $53,100,000 for fiscal year 1975.

Section 16—Famine and Disaster Relief

This section amends 639 of the Act to give the President greater flexibility in carrying out programs of famine and disaster relief. Section 639 in its present form permits famine and disaster relief assistance in cases in which it would otherwise be prohibited. The section recognizes that humanitarian concerns in such cases over-ride the political considerations which, in some circumstances, should prevent the conduct of ordinary assistance programs.

The purpose of the proposed provision is to facilitate such humanitarian activities where operating procedures suitable in normal cases would unduly curtail them. Thus, for example, the provisions of the Merchant Marine Act of 1936 requiring transportation by American flag carriers would not apply in disaster situations when their use would result in delay in alleviating the consequences of the disaster. Similarly, the new authority would eliminate delays encountered in the past in responding swiftly and effectively to disaster situations because of the necessity of complying with such sections of the Act as 636(i), relating to vehicle procurement and section 604, establishing rules applicable to ordinary procurement activities.

Indochina Reconstruction

Section 17

This subsection adds a new part to the Act to provide for reconstruction of the war torn countries of Indochina. The new part contains four sections.

Section 801 is a statement of policy. It recognizes the importance of humanitarian relief and reconstruction assistance to the realization of a lasting and stable peace.

Section 821 authorizes the President to furnish assistance to South Vietnam, Laos and Cambodia. The assistance authorized may be furnished on a loan, grant, or other basis. Such aid may be used for a broad range of economic assistance activities, including relief, reconstruction, and development ranging from the most urgent emergency relief requirements, through programs to stabilize temporarily unsettled politico-economic conditions, to longer-range reconstruction projects designed to help the countries covered to resume their interrupted development. The provision contemplates that a full range of assistance mechanisms, including project, program, and technical assistance, may be utilized, and that such assistance may be furnished directly by the United States, or through private, regional, multilateral, or international organizations.

Section 822 authorizes appropriations for the purposes spelled out in section 821; $632,000,000 is authorized for fiscal year 1974. This figure does not include any amount for assistance to North Vietnam. The section makes clear that, while this part will be the principal source of funds for economic assistance for Indochina, funds otherwise available for these purposes, such as funds and authorities of the Overseas Private Investment Corporation (OPIC), may also be used. The funds authorized by this section may be appropriated to remain available until expended.

Section 831 provides that authorities for the performance of functions under part I of the Act shall also be available for carrying out this part of the Act. Some of those authorities in the Act are available to administer both part I and part II, while others are available for only part I. It is the intention of this section to make available for the administration of part V all authorities available to administer any part I program.

Foreign military sales

Section 18—Foreign Military Sales Act

(a) *Credit Sales Terms.* This subsection amends section 23 of the FMSA by extending from ten to twenty years the length of time for which credit may be extended.

(b) *Guaranties.* This subsection amends section 24(a) of the FMSA by eliminating the requirement that guaranties be issued only to financial institutions doing business in the United States. This change will permit the utilization of overseas sources of financing military exports at times when banks in the United States are unable to provide fully for such financing.

(c) This subsection amends section 24(c) of the FMSA in two respects:

(1) This provision is related to amendments contained in subsections (e), (f)(2), (g)(2), (h)(3), and (j) of this section of the Bill. Together, these amendments permit the sale and guarantee of promissory notes generated by credit sales under section 23 of the FMSA without additional charge against the current appropriation or the current program ceiling. Such direct credits are already charged against both the appropriation and the program ceiling in the year they are extended. These changes are intended to facilitate the Treasury Department's debt management functions and would not increase the amount of the FMS program.

(2) This provision is related to amendments contained in subsections (e), (f)(2), (g)(2), and (h)(3) of this section of the Bill. These amendments clarify the computation of the 25 percent guaranty reserve established by section 24(c) of the FMSA in conformity with the practice of the Export-Import Bank. The amendments specify that the principal amount of the loan guaranteed will be charged against the program ceiling

and that 25 percent of that principal amount will be charged against the current appropriation for the guaranty reserve.

(d) *Authorization.* This subsection amends section 31(a) of the FMSA by authorizing the appropriation of $525,000,000 for the fiscal year 1974 to carry out the purposes of the FMSA.

(e) *Aggregate Ceiling.* This subsection amends section 31(b) of the FMSA by establishing for the fiscal year 1974 a ceiling of $760,000,000 on the aggregate total of credits and guaranties which can be issued under the FMSA. It also makes technical amendments to section 31(b) which are explained above in the analysis of subsection (c).

(f) *Latin American Ceiling.* This subsection amends section 33(a) of the FMSA by removing cash sales from the ceiling on aggregate military assistance and sales to Latin America. It also makes technical amendments to section 33(a) to bring it into conformity with the amendments explained above in the analysis of subsection (c). In addition, this subsection raises the Latin American ceiling from $100,000,000 to $150,000,000.

(g) *African Ceiling.* This subsection amends section 33(b) of the FMSA by removing cash sales from the ceiling on aggregate military assistance and sales to Africa. It also makes technical amendments in section 33(b) to bring it into conformity with the amendments explained above in the analysis of subsection (c).

(h) *Waiver of Regional Ceilings.* This subsection amends section 33(c) of the FMSA to bring its terms into conformity with the amendments made by subsections (c), (f) (1) and (2), and (g) of this section of the Bill.

(i) This subsection repeals section 36(a) of the FMSA, which requires the Secretary of State to submit semi-annual reports to the Congress of exports of significant defense articles on the United States munitions list. Section 657 of the Act, which was enacted in 1972 in Public Law 92-226, now requires the submission of annual reports containing all of the information included in the reports submitted under section 36 (a) of the FMSA.

(j) This subsection amends section 37(b) of the FMSA to permit the deposit of a portion of the proceeds from the sale of promissory notes into the guaranty reserve. This change is related to the amendment made by subsection (c)(1) and its purpose and effect are explained in the analysis of that subsection.

By Mr. BEALL (for himself and Mr. MATHIAS):

S. 1712. A bill to amend title II of the Social Security Act to provide a special rule for determining insured status, for purposes of entitlement of disability insurance benefits, of individuals whose disability is attributable directly or indirectly to meningioma or other brain tumor. Referred to the Committee on Finance.

Mr. BEALL. Mr. President, I am sending to the desk, in conjunction with my distinguished colleague (Mr. MATHIAS) a bill that would provide a special rule for determining disability insured status for individuals who are disabled directly or indirectly by meningioma or other brain tumors.

Mr. President, this bill is identical to S. 686, which was introduced into the 92d Congress. This legislation resulted from information provided to us by Mrs. Irene C. Heap of Silver Spring, Md. Mrs. Heap has summarized her situation in a letter addressed to the Members of Congress, and I ask unanimous consent that the text of this letter be printed at this point in the CONGRESSIONAL RECORD followed by the text of this legislation.

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

HONORABLE MEMBERS OF CONGRESS:

I, and the other Brain Tumor Victims in same predicament as I, have the Constitutional Right to be represented by Disability Laws; therefore, I request prompt enactment of the Brain Tumor Bill re-introduced in Congress. This Bill is necessary because Social Security Administration's Director of Appeals Council wrote me, as follows: "there would appear to be no basis on which the claim could be pursued under existing law."

Your so-called "Definition of Disability" Laws deny that my fifteen (15) year Brain Tumor existed prior to emergency brain surgery because man-made machines failed to detect it even one year prior to brain surgery; thus, I was supposed to have worked while growing it.

HEW turned down the previous Brain Tumor Bills because other disabling excluded diseases don't have special provisions covering them. Denying Disability Benefits to those who have survived brain surgery once and may undergo it again is Murder by Congress of the disabled and is not representation.

I demand justice!!!

MRS. IRENE C. HEAP,
SILVER SPRING, MD.

S. 1712

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 223 of the Social Security Act is amended by adding at the end thereof the following:

"Special Rule for Determining Insured Status

"(e) Any applicant for disability insurance benefits, who for the month in which application for such benefits is filed does not satisfy the requirement of subsection (a)(1)(A), shall, nevertheless, be deemed to satisfy such requirement for such month if—

"(1) such applicant is under a disability;

"(2) the disability of such applicant is attributable, directly or indirectly, to the condition (whether past or present) of meningioma or other brain tumor;

"(3) prior to such month and prior to the date such applicant was first medically determined to suffer from meningioma or other brain tumor, such applicant experienced symptoms consistent with those produced by meningioma or other brain tumor; and

"(4) such applicant would have satisfied the requirement of subsection (a)(1)(A) for the month during which such applicant first experienced the symptoms referred to in clause (3), or, if later, the month following the month during which such applicant last engaged in any substantial gainful activity."

(b) The amendment made by subsection (a) shall apply with respect to monthly benefits under title II of the Social Security Act for months after the month in which this Act is enacted, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted.

By Mr. McGOVERN (for himself, Mr. ABOUREZK, Mr. CLARK, Mr. HATHAWAY, Mr. HUMPHREY, Mr. INOUYE, and Mr. MOSS):

S. 1714. A bill to establish a task force within the Veterans' Administration to advise and assist in connection with, to consult on, and to coordinate all programs pertaining to veterans of the Vietnam era. Referred to the Committee on Veterans' Affairs.

By Mr. McGOVERN (for himself, Mr. ABOUREZK, Mr. CLARK, Mr. HART, Mr. HATHAWAY, Mr. HUMPHREY, Mr. INOUYE, and Mr. MOSS):

S. 1715. A bill to amend title 10 of the United States Code to establish independent boards to review the discharges and dismissals of servicemen who served during the Vietnam era, and for other purposes. Referred to the Committee on Armed Services.

By Mr. McGOVERN (for himself, Mr. ABOUREZK, Mr. CLARK, Mr. HARTKE, Mr. HATHAWAY, Mr. HUMPHREY, Mr. INOUYE, Mr. MOSS, and Mr. CRANSTON):

S. 1716. A bill to amend chapter 49 of title 10, United States Code, to prohibit the inclusion of certain information on discharge certificates, and for other purposes. Referred to the Committee on Armed Services.

By Mr. McGOVERN (for himself Mr. ABOUREZK, Mr. CLARK, Mr. HART, Mr. INOUYE, and Mr. MOSS):

S. 1717. A bill to amend chapter 34 of title 38, United States Code, to provide additional educational benefits to Vietnam era veterans. Referred to the Committee on Veterans' Affairs.

By Mr. McGOVERN (for himself Mr. ABOUREZK, Mr. CLARK, Mr. INOUYE, and Mr. MOSS):

S. 1718. A bill to amend chapter 34 of title 38, United States Code, to permit eligible veterans pursuing full-time programs of education to receive increased monthly educational assistance allowances and have their period of entitlement reduced proportionally. Referred to the Committee on Veterans' Affairs.

PRISONERS OF PEACE

Mr. McGOVERN. Mr. President, there is a discordant note amid the cheers and accolades for our prisoners of war. The peace with honor we hear so much about appears more and more to have left tens of thousands of other veterans prisoners of peace.

All of us have been moved by the sight of our returning prisoners of war. Their arrival has been extensively televised; their ordeal has been anxiously recorded; their freedom has been joyously celebrated; their future has been a cause of concern from the White House to the boardrooms of great corporations, and in every community across the Nation. Nothing has been so indelibly imprinted on the American consciousness in the first moments of peace as the sight of those men walking off the planes that brought them home from Hanoi.

Yet for many others who served in Indochina, these days have been bittersweet. Like all of us, they welcome the release of the prisoners of war. But these veterans also wonder how long the country will continue to tell others who have done so much and lost so much, simply to ask what they can do for themselves.

What of the 25,000 paraplegics, quadraplegics, and shattered men who left their strength on a distant battlefield?

One of them said, as he sat in a hospital ward:

"When I saw the P.O.W.'s I cried. I cried out of self pity. I remember getting off the plane when I returned, and nobody met me. I envy the prisoners because they can walk. They were prisoners for five years and eight years, but I'm a prisoner within myself because I'm a prisoner in this wheelchair.

In hospitals and homes across this country there are young men without legs or arms or faces; men mangled or paralyzed who will never walk or father a child. No bands played for them. They came quietly back to a land that scarcely noted their return.

Almost 3 million Americans fought in Southeast Asia. Five hundred came home in the bright lights of television from the jails of North Vietnam. But 50,000 others came home in coffins—not to the cheers of a grateful country, but to the bitter tears of their families. And hundreds of thousands have come home to a dark night of frustration and deprivation. They are free from the dangers of war, but not from the indifference of peace. They are condemned to undergo addiction, to forego education, to go without employment. They are among the best of America's young, but often they have not even received adequate medical care or treatment for drug addiction. The Nation found them when it needed them to fight; but now that we do not need them, they cannot find the help they need from the Nation. They are fathers and sons, veterans, and citizens—and they are also the prisoners of peace.

Our leaders swore that they would never abandon the prisoners of war. But they have neglected the prisoners of peace.

Over 300,000 Vietnam-era veterans, ages 20 to 29, were unemployed at the beginning of 1973—nearly a third of a million men without jobs.

In February of this year, unemployment among veterans age 20 to 24 was 10.4 percent compared to 6.6 percent for nonveterans of the same age. The rate of unemployment among nonwhite veterans of that age bracket is much higher still.

As distressing as these figures are, they account for only the technically unemployed veteran—the serviceman who registers at a public employment office and maintains an active file. These unemployment figures do not include tens of thousands of others who have never registered nor those who have given up on public employment services and subsequently had their files deactivated. We really do not know how many hundreds of thousands of these Vietnam-era veterans are without jobs. A Harris survey published in early 1972 indicated that the actual unemployment rate for Vietnam veterans at that time was between 11 percent and 15 percent, with the figure as high as 21 percent for nonwhite veterans and 31 percent for those who are not high school graduates.

Mr. President, on various visits to Vietnam over the last 7 or 8 years, I was always impressed with the rather sizable number of these veterans who have not even completed high school. Yet, it is among that group, with deprived educational experience, that we find figures running up as high as one-third who are unemployed. So they are not only without adequate educational levels, but also without employment. I suppose that among this group we have the most serious cases of need.

One of the major problems faced by veterans seeking employment is what they refer to as "bad paper." Bad paper is a phrase used to describe a less than honorable discharge, and nearly 185,000 Vietnam veterans were turned out of the Armed Forces under these conditions—not with dishonorable discharges, but with what has been described as less than honorable. Most of these bad discharges, or bad paper, as they are referred to by the veterans—about 6 out of 7—are undesirable discharges, and are issued administratively, without the safeguards required at a court-martial, such as the right to counsel and adherence to rules of evidence.

Even though these men are eligible for employment counseling under the Department of Labor's Veterans' Employment Service, they will experience a great deal of difficulty in finding work. If they do find work it is usually demeaning and falls into the category of unskilled labor, with little hope of advancement.

The only real hope these men have is to have their discharges reviewed and recharacterized. But the process is slow, usually involving at least a year, assuming nobody has lost the records, and usually this process does not produce the desired result. Ninety-three percent of recent less than honorable discharge appeals have lost. It is particularly hard on veterans with poor education or from minority groups.

A Defense Department report says they get a higher proportion of undesirable discharges than white veterans with similar aptitudes and education.

Even with a bad paper discharge, a veteran is eligible for veterans' benefits. But he carries the bad paper with him, and his discharge form includes a code number that employers can translate very easily. These code numbers translate into drug abuse, homosexuality, and any number of other unsubstantiated charges that can haunt a man for life and make it nearly impossible for him to find decent employment.

The problem of veterans unemployment has been known to us for some time, and there has been no small effort on the part of Congress to rectify the situation. Time and time again, however, congressional proposals have been shunted aside or vetoed by Mr. Nixon on the grounds that they were "inconsistent with the national effort to contain inflation." It is still another aspect of the President's curious policy of protecting the dollar by neglecting people who need jobs.

Administration efforts to deal with veterans' unemployment have been characterized by great fanfare and minimal results.

A "Jobs for Veterans" program instituted in 1970 featured a mailing to 900,000 employers asking assistance in hiring and training veterans. Less than 2 percent of the employers even bothered to reply.

The administration has claimed that 140,000 veterans have attended veterans' job marts and job fairs. Yet a VA survey showed that only 14 percent of the eligible veterans had even heard of this program.

In June of 1971, Mr. Nixon set forth a six-point plan designed to help place unemployed veterans in jobs or training. Part of this plan took the form of an Executive order that required employers with Government contracts to publish job openings for veterans. To comply with this order, the Department of Labor requested $25 million. The administration cut the request back to $6 million.

Finally, in a much publicized effort to aid unemployed Vietnam veterans, Mr. Nixon gave them preference in Federal job openings for elevator operators, security guards, and custodians. That is not an opportunity for veterans—it is an insult to veterans.

More recently, the President has gone on radio to tell us of his concern for these men. He did not offer any new programs or any new funding. And quite understandably, he did not elaborate on how his 1974 budget affects veterans' unemployment.

But they are affected and very seriously. For example, 61,000 Vietnam veterans are employed under a program of subsidized jobs in State and local government. The Nixon budget proposes to cut the program from $1.3 billion to $407 million. The budget also calls for a cut in funds for manpower training from $1.4 billion to $1.2 billion for fiscal year 1974. That would mean a reduction of approximately 3,000 slots for veterans.

Yet in the face of all this evidence of neglect, the administration still attempts to plug the dike with public relations. Mr. Donald Johnson, Administrator of the Veterans' Administration, has come forward with a strange set of statistics claiming that unemployment among Vietnam veterans is at an all-time low. When he produced the figure of 5.7 percent, he did note that the figure applied to all Vietnam vets, but he did not say that the figure for veterans age 20–24 was over 10-percent—and that it was still higher for minority veterans. He also neglected to note that these statistics include student veterans who are working part time to make up for the inadequacies of the GI bill. And finally, he failed to mention that the VA considers a vet employed if he has worked only 3 days during the month in which the statistics are compiled.

Mr. Johnson's effort to paint a better picture with numbers and percentages has also been applied to the problem of educational assistance for Vietnam veterans. He says, for example:

The present single veteran allowance of $1,980 for a school year is nearly three times the World War II allowance and gives most veterans more monetary assistance than after World War II.

The statement stands in stark contrast to one made by a World War II veteran when he was interviewed by CBS during a recent five-part series on the plight of the Vietnam veterans. Let me quote him:

In the old days, of the $75 a month that I received and the tuition, I wound up with about $1,400 a year, and I could go to the best college in the land, Harvard, and still have $100 a month pocket. Today the Vietnam veteran gets about $1,980 a year and he just can't cut the mustard. He cannot pay half the tuition, let alone his subsistence.

What Mr. Johnson said is true. The allowance is nearly three times what it was before. But he did not say that the GI bill after World War II paid tuition fees, up to $500 a year, plus a monthly subsistence allowance. At the present time, a GI is paid a flat $1,980 for everything. The difference is easy to illustrate.

The veteran enrollment at Harvard College in the school year 1947–48 was 3,300 out of a total student population of 5,600. In 1971–72, Harvard College enrolled 89 veterans out of a total of 6,000 students.

But the full story is told in a Harris survey which revealed that less than 35 percent of the Vietnam veterans eligible for educational assistance under the GI bill are taking advantage of the monthly subsistence allowance to further their education. This contrasts sharply with the nearly 60 percent participation by veterans of World War II and 42 percent following the Korean conflict. And only 14 percent of those with a high school education or less are participating. That means about 1 high school graduate in 7 and less than 1 high school dropout in 10 is participating.

So the story is the same with education as it is with employment. The younger, less advantaged veterans and the minority veterans are the ones who need our help the most—and they are the ones who are receiving the least assistance.

The simple fact, Mr. President, is that in the last 25 years, the cost of a higher education has risen three times as much as GI educational assistance.

On October 24, 1972, 2 weeks before the national election, the President signed into law a package of bills designed to close this incredible gap between available assistance and the minimum needs of Vietnam veterans seeking a higher education. In January of 1973, 2 months after the national election, he made it clear he had no intention of carrying out two of the most critical programs included in that package. He has impounded a $50 million fund that was intended to provide part-time jobs for student veterans and he asked Congress to rescind authorization of $25 million to be used to encourage private universities to admit and train Vietnam veterans.

But perhaps the most discouraging aspect of the arguments against increased educational benefits for Vietnam veterans is the notion that these benefits are some kind of handout—another part of the widespread system of government giveways. Nothing could be farther from the truth. Every survey conducted since the inception of the GI bill has borne out two vital facts. First, that veterans consistently rank as better students than nonveterans and second, that the money invested in veterans' education has been returned many times over in increased tax revenues.

The president of Harvard University in 1949 stated that veterans were "the most promising and mature students Harvard has ever had." In addition to producing 450,000 engineers, 360,000 teachers and thousands of professionals in the fields of medicine, law, and science, the World War II GI bill helped pay for the education of 21 U.S. Senators and 65 Congressmen.

It is hard for me to express my gratitude to the country that provided this opportunity for me after service in World War II. And it makes me all the more determined on providing the same opportunities for the Vietnam veterans.

Mr. President, in almost every area of veterans needs, one discovers that the response of the country to the problems of these Vietnam veterans has been less generous than it was at the end of World War II—not only in the field of unemployment, but also in the field of education, in the review of less than honorable discharges, and in providing educational assistance for eligible Vietnam veterans. In all these areas I think we have shortchanged our Vietnam era veterans.

I think of my own case, some 28 years ago, upon coming back from World War II, when I was permitted to attend one of the great universities of this country at full Government expense, with subsistence allowance to take care of my family. I came from a family of very meager means, where an education of this kind would not have been possible from my own resources. But because of the generosity of the World War II GI bill of rights, I was enabled to go through clear to the Ph. D. level. There is no question in my mind that it was that opportunity that made possible my later public career.

I think that the veterans from the Vietnam era are entitled to benefits at least as generous as those we provided after previous wars. We came back from World War II with the emotional and psychological support that comes from the knowledge that we had participated in a war widely supported and widely backed by the Nation. Veterans coming back from this war come back to a country that largely believes the war was a mistake. I share in that judgment. But one has to think about the impact on the young men who participated in the war; and as one who has been a long-time critic of our involvement in this conflict, I want to be in the forefront of those who recognize that it was not the veterans who participated in this war who charted the war, who set the policy, and who are responsible for our involvement. The mere fact that they now lack the kind of unified support for the war effort that we had in previous wars makes it all the more important that we offset that loss of psychological and emotional support by seeing that they are given generous educational job benefits, that they are provided compassionate opportunity for review of less than honorable discharges, and that in fact we develop a task force composed of Vietnam era veterans to review the various needs that confront these young men.

Mr. President, thousands of our veterans are prisoners of peace. And so are we. We are prisoners of our own desperate desire to escape the past, to free mind and memory from what we have done to ourselves and others in dubious battle half a world away. But the veteran who is crippled or addicted or unemployed rebukes our flight from truth—and so we are tempted not to see him. We are tempted to put aside the wreckage of this war and the oppression it has brought in its wake. We are tempted to turn away, consigning the lessons and costs of Vietnam to the historians of another day. But unless we learn those lessons, we may again lose our way. We can make real a resolve of no more Vietnams only if we understand what it was in our national character and leadership that created the first Vietnam—and only if we face what it has done to several million American sons.

With the advent of an all-volunteer Army and the increased salaries and benefits that accompany such a plan, the need for extensive veterans programs is due to decrease sharply in the years ahead. That makes it all the easier to forget the current group of veterans, to consign them to a place of oblivion in our society. And it increases the urgency for comprehensive legislation in this session.

In an attempt to compliment the tireless efforts of both Senator Hartke, the distinguished and committed chairman of the Veterans' Affairs Committee, and Senator Cranston, my good friend from California, to meet that urgent demand, I am today introducing five measures which I hope will meet with prompt consideration and approval.

I

These measures include creation of a Vietnam Veterans' Task Force—composed entirely of Vietnam veterans—to oversee and coordinate all existing programs available for their benefit and to expand outreach efforts within the VA to encourage participation in these programs. The task force will also work to evaluate the utilization of veterans' inservice training and experience. Billions of dollars and years of training are wasted, because America is unable to tap veterans' resources developed in the service.

Another major responsibility of the task force will be to initiate programs intended to create job opportunities for disabled veterans. It is to them we owe the greatest sacrifices in the Vietnam conflict. And it is to them we owe the greatest commitment to make life decent in the country that sent them off to war.

II

At the same time, I am reintroducing a bill from last session that seeks to correct the tremendous inequity between our treatment of the Vietnam era veteran and previous generations of veterans. This bill would provide direct payment by the VA for tuition, books and fees, similar to the program that was available to World War II GI's.

III

Also at this time I wish to introduce an amendment to title 38 that would allow a

veteran to draw his full 36-month entitlement in accelerated payments over a shorter period of time. In doing so, it would help the veteran defray some of the cost of tuition and other fees while completing his degree in less than the standard 4 years.

IV

The next measure calls for the removal of discharge and reenlistment code numbers from the personal copies of Veterans' Discharge Form DD–214. These numbers make hundreds of thousands of veterans virtually unemployable for the rest of their lives.

V

Finally, Mr. President, I am advocating the creation of "Vietnam Era Military Discharge Review Boards." These boards would provide an appeal procedure for the many thousands of young veterans who have been turned out of the Armed Forces under less than honorable conditions.

The proposed legislation will have the effect of bringing our Vietnam-era veterans up to roughly the level of benefits provided to veterans after World War II. A number of Senators have joined in cosponsoring one or in some cases all five of these measures.

In the middle sixties, when the escalation of our involvement was at its greatest, the Army began taking men who previously did not meet the standards set by the Armed Forces. Many of these men were eventually forced to leave under less than honorable conditions. We owe them an opportunity to remove the black mark on their records that was nearly inevitable from the moment they were taken in.

It is estimated that 18,000 veterans were discharged less than honorably for drug abuse, who are not eligible for the current Department of Defense review program. The program itself appears woefully inadequate to meet the needs of those who are eligible. Between August of 1971, when the review program was established and, March 1, 1973, 3,398 veterans with drug abuse discharges applied for recharacterization of their discharges; of these, 1,367 were upgraded, 924 were reviewed and not recharacterized, and 1,107 cases are still pending.

Mr. President, I am extremely pleased by indications from within the administration that we should be doing more for these men. Just over a week ago, Dr. Richard S. Wilbur, Assistant Secretary of Defense for Health and Environment, released a report on drug afflicted veterans who have returned from Vietnam. During the course of his presentation he had this to say:

Drug abusers in Vietnam are not highly deviant men. Instead, they are our sons who have succumbed to the heavy pressures of family separation, loneliness, ready availability (of drugs) and the drug culture that permeates our society. They deserve much better from society than they are receiving at the present time.

It seems to me that the very least society can do for them is to combine the opportunity for recharacterization of their discharges with the comprehensive drug treatment and rehabilitation program that has already passed the Senate.

I ask unanimous consent that the text of these bills be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. McGOVERN. I have only one thing to add, Mr. President. I have spoken at length and on a number of occasions about the problems faced by our Vietnam veterans. But my case has been built on numbers and percentages that fall far short of expressing in human terms the very real tragedy of the men who have given their best to their country, but have gotten so little in return. I would like to share with the Senate one of the many letters I have had from hundreds of young veterans over the last few years. His words speak louder than all the statistics:

I'm a paralyzed Vietnam veteran. I got shot in that miserable war making Vietnam safe from Vietnamese. Mr. McGovern, I can't work 'cause I can't walk. I'm not very educated and I need my pension to survive. Jesus, don't I rate something for my sacrifice. A sacrifice I didn't give willingly. I was drafted. I didn't say "send me to Nam and get me shot . . ." I'm in bad shape, but friends of mine . . . (one) he's got brain damage and a left hand like a lobster's claw, he can't sleep cause he sees the dead he killed haunting him. That's his gift from Vietnam. (Another one) has an arm like a pendulum, it just hangs on his shoulder. How can he work? We're just people without college degrees, sons of factory workers. We fought that crummy war and got shot up in it. Don't we deserve something?

They are fathers and sons, veterans and citizens—and they are also the prisoners of peace.

So, Mr. President, as we seek to free them, let us seek to free ourselves. Let us reject the easy temptation to accept peace without that quest for the causes of war and the willingness to pay its costs which alone can enable us to keep peace. And let us proceed in the spirit of charity that seeks reason instead of scapegoats, guides for policy instead of guilt for the past, and justice instead of indifference for those who have borne the weight of battle.

EXHIBIT 1

S. 1714

A bill to establish a task force within the Veterans' Administration to advise and assist in connection with, to consult on, and to coordinate all programs pertaining to veterans of the Vietnam era

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part of title 38, United States Code, is amended by adding at the end thereof a new chapter as follows:

"Chapter 77—Vietnam Era Veterans' Task Force

"Sec.
"4301. Vietnam Era Veterans' Task Force.
"4302. Duties of the Task Force.
"4303. Executive director; assistant executive directors.
"4304. Advisory committee.
"4305. Authorization for appropriations.

"§ 4301. VIETNAM ERA VETERANS' TASK FORCE

"There is established in the Veterans' Administration a special task force to be known as the Vietnam Era Veterans' Task Force (hereinafter in this chapter referred to as the 'Task Force'). The membership of the Task Force shall be composed of the Administrator, the Secretary of Defense, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Secretary of Commerce, and an officer or employee from the Veterans Employment Service of the United States Employment Service, designated by the Secretary of Labor.

"§ 4302. DUTIES OF THE TASK FORCE

"(a) It shall be the duty of the Task Force to advise and assist in connection with, to consult on, and to coordinate the planning and implementation of all Federal programs pertaining to veterans of the Vietnam era. Such programs include, but are not limited to (1) veterans' educational and vocational training programs, (2) veterans' outreach programs, (3) veterans' medical (including drug treatment and rehabilitation) programs, (4) armed forces educational programs, (5) Project Transition, (6) the Veterans Employment Service Program, (7) the PREP program, (8) veterans programs administered by the Office of Education of the Department of Health, Education, and Welfare, and (8) the Jobs for Veterans Program.

"(b) It shall also be the duty of the Task Force to—

"(1) promote and encourage public and private efforts to (A) publicize the skills, experience, training, maturity, and leadership ability of veterans, and (B) find employment for veterans consistent with their abilities;

"(2) encourage, with the assistance of all departments and agencies of the Government concerned, the incorporation of relevant military training and experience into union apprenticeship programs;

"(3) seek the development of transition training programs or courses in the armed forces to augment the military training and experience of active duty personnel in order to help such personnel meet union apprenticeship standards after their release from active duty;

"(4) develop programs, in cooperation with business management, to utilize in management positions the leadership abilities and other skills of veterans;

"(5) work and consult with educational institutions to evaluate (and, where possible, grant academic accreditation for), the special education and training given to members of the armed forces, including, but not limited to, training received under the General Educational Development Program, the College Level Examination Program, and courses taught by the United States Armed Forces Institute;

"(6) assist in the revision, expansion and improvement of the 'Guide to the Evaluation of Education Experience in the Armed Forces';

"(7) encourage the development of programs under which employers and employment agencies will evaluate and give appropriate recognition to military occupational specialties of veterans;

"(8) promote the incorporation of medical training and experience received in the armed forces into civilian health service training and employment programs;

"(9) assist in the development of programs that encourage and provide for the employment of disabled veterans of the Vietnam era, including a compilation of lists of all schools, institutions, training programs, and employers that offer special services and programs for disabled or handicapped persons, and a description of the nature of such services and programs;

"(10) develop and assist in the implementation of a program to locate, contact, and inform Vietnam era veterans of programs available to them; and

"(11) perform such other duties and functions as the Administrator may assign to it consistent with the provisions of this chapter.

"§ 4303. Executive director; assistant executive directors

"(a) There shall be an executive director and at least four assistant executive directors of the Task Force all of whom shall be appointed by the Administrator. All such directors shall be veterans of the Vietnam era and at least three of them shall be 30 years of age or younger. The executive director may receive compensation at a rate not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5 and the assistant executive directors may receive compensation at a rate not in excess of the maximum rate for GS–17 of such General Schedule.

"§ 4304. Advisory committee

"The Administrator shall appoint an advisory committee composed of persons who are eminent in the fields of labor, management, education, State and local government, and the medical profession. He shall also appoint to such committee persons who represent appropriate veterans' organizations referred to in section 3402 of this title and persons who represent veterans' organizations established during the Vietnam era, including, but not limited to, the National Association of Collegiate Veterans, Concerned Veterans of Vietnam, and Vietnam Veterans Against the War. The Administrator is also authorized to appoint persons with expertise in other fields he determines would be useful to the Task Force, but the membership of the advisory committee may not exceed twenty-five. It shall be the function of the advisory committee to advise and consult with the Task Force regarding and all matters pertaining to the duties and responsibilities of the Task Force under this chapter. Members of the advisory committee shall serve without compensation but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such committees.

"§ 4305. Authorization for appropriations

"There are authorized to be appropriated not to exceed $3,000,000 for each fiscal year to carry out the duties and responsibilities of the Task Force under this chapter."

(b) The table of chapters at the beginning of title 38, United States Code, and at the beginning of part IV of such title are each amended by adding at the end thereof the following:

"77. Vietnam Era Veterans' Task Force 4301."

SEC. 2. (a) Section 1792 of title 38, United States Code, is repealed.

(b) The table of sections at the beginning of chapter 36 of such title is amended by striking out

"1792. Advisory committee."

S. 1715

A bill to amend title 10 of the United States Code to establish independent boards to review the discharges and dismissals of servicemen who served during the Vietnam era and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 79 of title 10, United States Code, is amended—

(1) by inserting under the chapter heading following:

"'Subchapter Sec.

"I. Correction of Military Records—General ---------- 1551

"II. Special Vietnam Era Discharge Review Boards ---------- 1561

"Subchapter I.—Correction of Military Records—General"; and

(2) by adding at the end of such chapter a new subchapter as follows:

"Subchapter II.—Special Vietnam Era Discharge Review Boards

"Sec.

"1561. Establishment of discharge review boards.

'1562. Duties of discharge review boards.

"§ 1561. ESTABLISHMENT OF DISCHARGE REVIEW BOARDS.

"(a) There are established a number of discharge review boards to be known as Vietnam Era Discharge Review Boards (hereinafter in this subchapter referred to as the 'review boards'. The headquarters of such review boards shall be located, for administrative purposes only, in the Department of Defense.

"(b) The Secretary of Defense shall have authority—

"(1) to determine the number of review boards in session at any time, but such number shall be not less than four nor more than eight;

"(2) to determine the locations where the review boards shall conduct their business, such locations to be geographically disbursed on the basis of population concentrations of discharge appellants; and

"(3) to convene or dissolve review boards in accordance with the number of discharge and dismissal applications pending at any time.

"(c) Each review board shall be composed of eight members to be appointed by the President. The term of office for members shall be three years, except that the terms of office of members first appointed to any review board shall expire, as designated by the President at the time of appointment, four at the end of two years and four at the end of three years. The terms of office of all successors shall be for three years, but any person appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed may be appointed only for the unexpired term of his predecessor. Of the eight members on any review board—

"(1) at least two shall be veterans of the Vietnam era and under the age of 30 at the time of appointment.

"(2) at least one shall be a veteran who was in active service prior to the Vietnam era,

"(3) at least one shall be a non-veteran,

"(4) at least two shall be members of the armed forces serving on active duty, but may not be from the same branch of service, and

"(5) one shall be a medical doctor in the employ of the Veterans' Administration.

"(d) Each review board shall meet at least four times during each calendar year, unless a minority of such board determines that fewer sessions will be adequate for the expeditious performance of its duties. Five members of a review board shall constitute a quorum.

"(e) Members of review boards appointed under paragraphs (1), (2), and (3) of subsection (c) shall receive compensation at a rate of $50 for each day they are engaged in the work of the review board, and shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by law for persons in Government service who are employed intermittently. Other members of review boards shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the official duties of the review boards.

"(f) A vacancy in a review board shall not affect its powers, and shall be filled in the same manner as the original appointment.

"(g) The President shall appoint an executive director for each review board and shall fix his compensation at a level not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code. The executive director of each review board, with the approval of the board, may—

"(1) employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the review board, but no individual so appointed may receive compensation in excess of the maximum rate for GS–17 of the General Schedule under section 5332 of title 5, United States Code,

"(2) procure temporary and intermittent services to the same extent authorized by section 3109 of title 5, United States Code, but at rates for individuals not to exceed $75 per diem.

"(h) The head of any Executive department or agency of the Federal Government may detail, on a reimbursable basis, any of its personnel to assist review boards in carrying out their work.

"§ 1562. Duties of discharge review boards

"(a) Notwithstanding any other provision of this title and regardless of any decision previously made by any board for the correction of military records established under subchapter I of this chapter, the review boards shall, upon application filed in accordance with regulations prescribed by the President, review any discharge or dismissal from the armed forces granted under less than honorable conditions to any person who served on active duty during the Vietnam era. If, upon the review of the discharge or dismissal of any such person, a review board finds that such person—

"(1) was denied reasonable recourse, solution, or alternatives to the situations or circumstances which precipitated or substantially contributed to his discharge or dismissal;

"(2) was discharged or dismissed under prejudicial, arbitrary, or unreasonably severe circumstances;

"(3) was physically, mentally, or emotionally unfit or incapable of meeting standards or performing assignments required of him by military service;

"(4) was discharged or dismissed primarily for the possession or use of a narcotic drug or marijuana or for dependency on a narcotic drug, but not for the sale of a narcotic drug or marijuana;

"(5) was discharged or dismissed primarily for political, moral, or religious beliefs or activities; or

"(6) no longer warrants or deserves, in the judgment of the review board, the classification of discharge granted him.

then the review board shall change the discharge or dismissal or issue a new discharge to indicate that such person was discharged or dismissed under honorable conditions.

"(b) A decision by a review board is final and is not subject to further administrative or judicial review,

"(c) The review board shall have the power to—

"(1) administer oaths;

"(2) require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of their duties;

"(3) in the case of disobedience to a subpoena or order issued under this subsection, invoke the aid of any district court of the United States to require compliance with such subpoena or order;

"(4) order testimony to be taken by deposition before any person who they may designate for that purpose and who has the power to administer oaths, and in such instances to compel testimony and the production of testimony in the same manner as authorized under paragraphs (2) and (3) of this subsection;

"(5) require directly from the head of any executive department or agency of the Fed-

eral Government available information which the board deems useful in the discharge of its duties, and all such departments and agencies shall cooperate with the review boards and furnish relevant information to the extent permitted by law; and

"(6) prescribe such regulations and procedures as may be necessary to carry out the purposes of this subchapter.

"(d) Any district court of the United States with requisite jurisdiction may, in case of a refusal to obey a subpoena or order of any review board issued under this subtitle, issue an order requiring compliance therewith, and any failure to obey the order of the court may be punished by the court as contempt thereof.

"(e) Any review board may review the discharge or dismissal of any person described in the first sentence of subsection (a) of this section upon its own motion or upon the request of such person or, if he is dead, his spouse, next of kin, or legal representative. Review boards may not receive or act upon any application for review of a discharge or dismissal if such application is filed with it on or after January 1, 1978.

"(f) Notwithstanding the provisions of subchapter I of this chapter, the review boards established under this subchapter shall have exclusive jurisdiction to review discharges and dismissals of persons described in the first sentence of subsection (a) of this section if the application for review is filed on or after the date of enactment of this subchapter and prior to January 1, 1978.

"(g) As used in this subchapter, the term 'Vietnam era' means the period beginning February 28, 1961, and ending on such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress."

S. 1716

A bill to amend chapter 49 of title 10, United States Code, to prohibit the inclusion of certain information on discharge certificates, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 49 of title 10, United States Code, is amended by adding at the end thereof a new section as follows:

"975. Prohibition against certain information appearing on discharge certificates

"The Secretary of Defense shall take such action as may be necessary and appropriate to insure that—

(1) discharge certificates issued to members of the Armed Forces shall not bear any letter or number code or other indicator of any kind whatsoever which discloses any reason why any such member was discharged or separated from service; and

(2) no information indicating or relating to any reason why any former member of the Armed Forces was discharged or separated from service may be made available to any private person (other than the former member concerned) or entity by any office or employee of any military department or agency."

(b) The table of sections at the beginning of chapter 49, of title 10, United States Code, is amended by adding at the end thereof a new item as follows:

SEC. 2. (a) The amendment made by the first section of this Act shall be applicable to all discharges issued by the armed forces of the United States on and after the date of enactment of this Act.

(b) Any former member of the armed forces of the United States who, prior to the date of enactment of this Act, was issued a discharge certificate and such certificate contained any information (in code or otherwise) described in section 975 of title 10, United States Code, as added by the first section of this Act, shall, upon application to the Secretary of the appropriate military department, be issued a new discharge certificate without such information appearing thereon.

S. 1717

A bill to amend chapter 34 of title 38, United States Code, to provide additional educational benefits to Vietnam era veterans

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 34 of title 38, United States Code, is amended by adding after section 1682 a new section as follows:

"1682A. Payment of tuition and certain other expenses for eligible veterans.

"(a) In addition to the educational assistance allowance payable to any eligible veteran under this chapter, the Administrator shall reimburse any eligible veteran enrolled in a full-time or part-time course of education or training under this chapter (including a cooperative program) for costs incurred by such veteran for tuition, for laboratory, library, health, infirmary, and other similar fees, and for expenses incurred for books, supplies, equipment, and other necessary expenses, exclusive of board, lodging, other living expenses, and travel, as are generally required for the successful pursuit and completion of the course of education or training in which such veteran is enrolled. In no event shall payment made to an eligible veteran under this section for any expense incurred by such veteran exceed the customary amount paid by other students in the same institution for the same service, privilege, material, or equipment; and in no event shall the total payments made to or on behalf of any veteran under this subsection exceed $1,000 for an ordinary school year, unless the veteran elects to have such customary charges paid in excess of such limitation, in which event there shall be charged against his period of eligibility the proportion of an ordinary school year which such excess bears to $1,000. No payments for tuition or enrollment shall be paid to any veteran for apprentice training on the job. Payments for tuition and other expenses incurred by any eligible veteran may be made by the Administrator to such veteran under this subsection on the basis of such reasonable evidence as the Administrator may require.

"(b) The Administrator shall prescribe such regulations as he deems necessary or appropriate to implement the provisions of this section."

SEC. 2. Section 1691(b) of title 38, United States Code, is amended by striking out the period after the word "title" and inserting in lieu thereof a comma and the following: "and shall reimburse an eligible veteran pursuing a course or courses under this section for tuition and other expenses as provided in section 1682A of this title.".

SEC. 3. The table of sections at the beginning of chapter 34 of title 38, United States Code, is amended by adding below

"1682. Computation of educational assistance allowances."

the following:

"1682A. Tuition and certain other expenses for eligible veterans."

SEC. 4. The amendments made by this Act shall become effective on the first day of the second calendar month following the month in which this Act is enacted. No benefits shall be paid to any person for any period prior to such effective date.

S. 1718

A bill to amend chapter 34 of title 38, United States Code, to permit eligible veterans pursuing full-time programs of education to receive increased monthly educational assistance allowances and have their period of entitlement reduced proportionally

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1682 of title 38, United States Code, is amended by adding at the end thereof a new subsection as follows:

"(d) Notwithstanding any other provision of this chapter, an eligible veteran pursuing a program of education on a full-time basis may elect to receive increased monthly payments under paragraph (1) and have his period of entitlement reduced proportionally, in accordance with regulations issued by the Administrator, but in no case may the monthly payment in the case of any eligible veteran be increased by more than twice the amount he would otherwise be entitled to receive."

By Mr. GRIFFIN:

S. 1719. A bill to amend the Federal Aviation Act of 1958 and the Interstate Commerce Act to authorize reduced-fare transportation on a space-available basis for persons who are 65 years of age or older. Referred to the Committee on Commerce.

REDUCED TRAVEL FARES FOR OLDER AMERICANS

Mr. GRIFFIN. Mr. President, today I am reintroducing legislation to authorize a program of reduced travel fares for persons over 65 years of age on a space-available basis.

The bill is similar to legislation which I introduced in the last Congress.

At present, the high cost of air travel makes it impossible for many of our older Americans to fly. As a matter of fact, only about 5 percent of the airline passengers are over 65 years of age. My bill would authorize reduced-fare programs for senior citizens on buses and railroads, as well as the airlines.

The need for better transportation arrangements for the elderly was emphasized by the 1971 White House Conference on Aging which recommended that—

> Appropriate legislation at all levels of government should provide that the elderly and handicapped be allowed to travel at half fares or less on a space-available basis on all modes of public transportation.

Near the close of the last Congress, the Senate adopted an amendment to an antihijacking bill, which I cosponsored, authorizing reduced air fares for the elderly on a space-available basis. Unfortunately, the legislation was not approved by the House of Representatives.

Subsequently, in December 1972, the Civil Aeronautics Board moved to end certain discount fares already in effect, such as youth standby and reservation fares and family fares, declaring that such fares were unjustly discriminatory.

Since those reduced fares were not specifically authorized under the law, there is doubt that similar discount fares for persons over 65 could be permitted without additional specific statutory authority.

Furthermore, most of the airline companies, with the notable exception of Hawaiian air carriers, have appeared unwilling to offer reduced fares for senior citizens. Accordingly, the legislation could be useful as a prod as well as in providing legal authority.

In February of this year the Comptroller General of the United States commented on this subject by saying:

It seems to us that the proposed reduced standby fares, possibly at a lower discount from the regular fare than that now prevalent, might well be materially beneficial: more extensive travel arrangements would be available for youth and older persons which should increase the airlines' average load factor. The proposal also amends a part of the law which is permissive thus preserving the airlines' managerial discretion to condition the use of the reduced fares to nonpeak periods and as to govern the rate of discount to be given.

My legislation is permissive and would allow management flexibility to insure that regular fare passengers would not be injured. Instead of discriminating against persons in other age groups, reduced fares for persons over 65 would help eliminate reverse discrimination due to the inadequate fixed incomes of many of our older citizens.

Mr. President, I am pleased that the Subcommittee on Aviation of the Senate Commerce Committee has announced that hearings will be held in May. Hopefully, this early action in the Senate will pave the way for approval of legislation during the current session of Congress.

By Mr. CHURCH:

S. 1720. A bill to amend the Water Resources Planning Act to extend the authority for financial assistance to the States for water resources planning. Referred to the Committee on Interior and Insular Affairs.

Mr. CHURCH. Mr. President, I send to the desk for appropriate reference a bill to amend the Water Resources Planning Act to remove the termination date for the existing program of Federal assistance to the States to finance water resources planning.

The Water Resources Planning Act of 1965 was a landmark in Federal water resource policy. In the years since its enactment, it has greatly improved our ability to meet the increasing demands upon the Nation's limited water resources.

Perhaps the most significant aspect of the act is its emphasis upon State participation in the planning and management of water resources through the provisions of the act for coordinated planning and for financial assistance to the States. These assistance funds, which are matched by the States, have helped to support State agencies and programs which are capable of meeting greater and more varied social demands with a finite water resource.

The authority contained in title III of the act for annual planning grants to the States is limited to 10 fiscal years following the date of enactment. The authority for such appropriations, therefore, will expire with the fiscal year 1976 budget. It is timely for the Congress to consider the future of the program. The State agencies and programs which are partly funded from this source are essential, and their future must be assured. The States, some of which operate on 2-year budget cycles, must soon have assurances that the Federal funds will continue to be available.

I am introducing this measure today as a basis for the Water and Power Subcommittee of the Senate Interior Committee to obtain the views of the executive agencies on this matter and to begin consideration of the future of the planning grant program.

By Mr. METCALF (for himself and Mr. MANSFIELD):

S. 1721. A bill to designate certain lands in the Gallatin and Beaverhead National Forests, in Montana, as wilderness. Referred to the Committee on Interior and Insular Affairs.

Mr. METCALF. Mr. President, I introduce for appropriate reference a bill by Senator MANSFIELD and myself to expand the Spanish Peaks wilderness area in the Gallatin and Beaverhead National Forests in Montana. With the exception of one minor boundary change, this bill is identical with S. 1849 which we introduced in the 92d Congress.

We are all aware of the enormous pressures which the march of "civilization" is putting on our remaining wilderness. The Forest Service has been putting final touches on its recommendations for areas considered sufficiently primitive to be included in the national wilderness system. By pinpointing one area, this bill demonstrates my conviction that, by and large, those recommendations are too little and too slow.

As for the Spanish Peaks proposal, the Forest Service recommends inclusion of some 63,000 acres. My bill would nearly double the area, adding land on all sides but principally in the Jack Creek area to the south. Hearings conducted by the Subcommittee on Public Lands of the Senate Interior Committee have revealed overwhelming citizen support for the expanded area. Those hearings, conducted last fall in Bozeman, Mont., solicited testimony from those who live closest to the proposed reserve and who know it best.

Mr. President, all the lands I wish to add to the Forest Service proposal are essentially unused rugged lands which belong naturally with the core area. Some private ownership is involved in the southern Jack Creek area, most of it by the Burlington Northern Railroad. Burlington Northern is an absentee owner, having acquired the land in a checkerboard pattern by trades for lands previously given the railroad through Federal subsidy. I continue to be hopeful that the company, which does not presently use the land, will be convinced that it could serve a high public good without prejudicing the company's vital interests. Having traded once for the property, it could certainly negotiate another swap with the Forest Service.

Mr. President, I ask unanimous consent that the proposed legislation 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. 1721

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 3(c) of the Wilderness Act of September 3, 1964 (78 Stat. 890, 892; 16 U.S.C. 1132(c)), the following described lands in the Gallatin and Beaverhead National Forests, Montana, comprising about 113,102 acres and depicted on a map entitled "Spanish Peaks Wilderness," dated May 1971, are hereby designated as wilderness:

Beginning at the northeast section corner, section 32, township 4 south, range 4 east, M.P.M.; thence south along section lines appoximately 1 mile to the southeast section corner, section 32, township 4 south, range 4 east; thence east along the township line approximately ½ mile to the north quarter section corner, section 4, township 5 south, range 4 east; thence south approximately 2 miles to the south quarter section corner, section 9; thence southeasterly approximately 3½ miles to the east quarter section corner, section 26; thence south along section lines approximately 1 mile to the east quarter section corner, section 35; thence west approximately ½ mile to the center of section 35; thence south approximately ½ mile to the south quarter section corner section 35, all in township 5 south, range 4 east;

Thence, east approximately ½ mile to the northeast section corner section 2, township 6 south, range 4 east; thence south along section lines approximately 2 miles to the northeast section corner, section 14; thence southwesterly approximately 3½ miles to the center of section 28; thence south approximately ½ mile to the south quarter section corner, section 28; thence west along section lines approximately 2½ miles to the southwest section corner, section 30; thence north approximately 1 mile to the northwest section corner, section 30, all in township 6 south, range 4 east.

Thence west along section lines approximately 1 mile to the southwest section corner, section 24; thence north approximately ½ mile to the west quarter section corner, section 24; thence west approximately ½ mile to the center of section 23; thence north approximately ¼ mile; thence west approximately ½ mile to the sixteenth section corner, section 23; thence north along section line approximately ¼ mile to the northwest section corner section 23; thence north along section line approximately ¼ mile to the sixteenth section corner; thence west approximately ½ mile; thence north approximately ¼ mile to the center of section 15; thence west approximately ½ mile to the west quarter section corner, section 15; thence north along section lines approximately ½ mile to the northwest section corner, section 15; thence west approximately ½ mile to the south quarter section corner, section 9; thence north approximately ½ mile to the center of section 9; thence west approximately ½ mile to the west quarter section corner, section 9; thence north approximately 1 mile; thence west approximately 1 mile; thence south approximately 1 mile to the west quarter section corner, section 8; thence west approximately ¼ mile to the Madison-Gallatin divide; thence southerly along said divide approximately ½ mile to the intersection of the section line common to sections 7 and 18; thence west along section lines approximately ¾ mile to the northwest section corner section 18; thence south along section lines approximately 1¼ miles to the intersection of the Madison-Gallatin divide, all in township 6 south, range 3 east.

Thence southwesterly along the Madison-Gallatin divide approximately 2¾ miles to Lone Mountain in the southwest quarter of section 26; thence northwesterly along spur ridges approximately 4 miles to Fan Mountain in the center of section 19, all in township 6 south, range 2 east.

Thence northwesterly along spur ridges approximately 2¼ miles to the northwest section corner, section 13; thence north

along section line approximately 1 mile to the northwest section corner, section 12; thence west along section line approximately 1 mile to the southwest section corner, section 2; thence north along section line approximately 1 mile to the northwest section corner, section 2; thence east along section line approximately 1½ miles to the north quarter section corner section 1; thence south approximately ¼ mile; thence east approximately ½ mile to the sixteenth section corner section 1, all in township 6 south, range 1 east.

Thence approximately 1 mile east to the sixteenth section corner, section 6; thence north along section lines approximately ¼ mile to the northwest section corner, section 5; thence east along the township line approximately ½ mile to the north quarter section corner, section 5, all in township 6 south, range 2 east.

Thence north approximately ¾ mile; thence west approximately ½ mile to the sixteenth section corner, section 32; thence west approximately 1 mile to the sixteenth section corner, section 31, all in township 5 south, range 2 east.

Thence west approximately 2½ miles to intersection with the Beaverhead National Forest boundary in section 34; thence north along said boundary approximately 2¼ miles to the north quarter section corner, section 22; thence east along section lines approximately ½ mile to the northwest section corner, section 23; thence north along section lines approximately 1 mile to the southwest section corner, section 11; thence west along section lines approximately 1 mile to the southwest section corner, section 10; thence north along section lines approximately 1 mile to the northwest section corner, section 10; thence west along section lines approximately 1 mile to the southwest section corner, section 4; thence north along section lines approximately 1 mile to the northwest section corner section 4, all in township 5 south, range 1 east.

Thence north along section lines approximately 1 mile to the northwest section corner, section 33; thence east along section lines approximately 1½ miles to a point on the north section line of section 34 which is approximately ¼ mile west of the Madison-Gallatin divide; thence southeasterly approximately 1¾ miles through sections 34 and 35 approximately ¼ mile west of the Madison-Gallatin divide to the south quarter section corner, section 35, all in township 4 south, range 1 east.

Thence southeasterly approximately 2½ miles through sections 2, 11, and 12, approximately ¼ mile west and south of the Madison-Gallatin divide to the sixteenth section corner on the east section line of section 12, all in township 5 south, range 1 east.

Thence northeasterly approximately ¼ mile crossing the Madison-Gallatin divide in the northwest quarter of section 7, township 5 south, range 2 east; thence northeasterly approximately 2 miles along the ridge dividing South Fork Cherry Creek and Alder Creek to the north quarter section corner, section 5, all in township 5 south, range 2 east.

Thence northeasterly approximately 2 miles along the ridge through sections 32 and 33 to the northeast section corner, section 33; thence east along section line approximately 3 miles to the northeast section corner, section 36, all in township 5 south, range 2 east.

Thence east along section lines approximately 1¾ miles to the sixteenth section corner, section 32; thence south approximately ¼ mile; thence east approximately ¼ mile to the sixteenth section corner on the east section line section 32; thence east approximately ¼ mile; thence north approximately ¼ mile to the sixteenth section corner, section 33, all in township 5 south, range 3 east.

Thence east along section line approximately 5¾ miles to the point of beginning.

SEC. 2. The wilderness area designated by or pursuant to this Act shall be known as the "Spanish Peaks Wilderness" and shall be administered in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the effective date of this Act, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary who has administrative jurisdiction over the area.

By Mr. HARTKE (for himself, Mr. PASTORE, Mr. METCALF, Mr. BAYH, Mr. MOSS, Mr. MONTOYA, Mr. RANDOLPH, and Mr. TAFT):

S. 1722. A bill to amend the Education of the Handicapped Act to provide tutorial and related instructional services for homebound children through the employment of college students, particularly veterans and other students who themselves are handicapped. Referred to the Committee on Labor and Public Welfare.

Mr. HARTKE. Mr. President, we can all agree upon the great importance of education in helping people to gain confidence in themselves and in their value to society. It is terrible to remain silent for fear of exposing ignorance, to shy away from involvement in public issues which concern their welfare, to be condemned, forever, to an unrewarding job—or no job at all—to feel inferior—in short, to lead a life which offers little reason for existence.

In order to avoid this stifling, second-class status in our society, we have created the largest, most accessible education system in the world. The American people have voiced their intention to educate every child in this country regardless of race, creed, color, sex, or economic status. For the most part, we are succeeding. Yet, in our sincere effort to provide an education to all, we have overlooked nearly 1 million of our children who fall into the category of homebound handicapped. These children may be required by their condition to remain home for months or years, and because of this they may have to forego their education.

States and local governments do recognize the problem, and many have taken action. The services they provide, however, vary widely—with some localities providing as much as 5 or more hours weekly, while others—for lack of funds—afford no instruction at all.

The bill I introduce today will provide tutorial and related instructional services for homebound children through the employment of college students, particularly veterans and other students who themselves are handicapped. This plan was praised by the Epilepsy Foundation of America in a recent letter which stated:

We are encouraged by this new and excellent approach to education of handicapped children. . . . particularly in favor of the special consideration to veterans and the emphasis on equipping homebound children for eventual assumption of a full role in community affairs.

In a similar letter, Goodwill Industries of America, Inc., said:

The interest in human resources demonstrated by this legislation will pay financial dividends in the future.

Mr. President, I believe, as do many organizations related to this area, that the type of legislation I am offering today for your approval is essential if we are to live up to our commitment of equal educational opportunities for all of our young people. I further believe that this particular bill offers a practical and resourceful method of assisting the handicapped.

Mr. President, I ask unanimous consent that the text of my 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. 1722

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Education of the Handicapped Act (20 U.S.C. 1421–1426) is amended by adding at the end thereof a new part H as follows:

PART H—USE OF COLLEGE STUDENTS AS TUTORS AND INSTRUCTIONAL ASSISTANTS FOR HOMEBOUND CHILDREN

AUTHORIZATION OF PROGRAM

SEC. 671. (a) The Commissioner is authorized to make grants to State education agencies to enable them to develop and carry out programs, at their and at local educational agency levels to provide, through the use of students in institutions of higher education, tutoring and instructional assistance, under the supervision of a qualified teacher, for homebound handicapped children who, though able to benefit from preschool, elementary, or secondary education, are prevented by their handicaps, by lack of facilities, or because they experience special difficulties when in school, from attending school. Homebound children for whom services under this part may be provided include but are not limited to those suffering from developmental disability and those as defined under section 602, paragraphs (1) through (15), and such services may be provided to children who are homebound for short or long terms.

(b) For a local educational agency to receive assistance under this part from a State education agency, it shall make a proposal to the State educational agency for a tutorial or instructional assistance program to be carried out through a cooperative arrangement with one or more institutions of higher education. The local educational agency shall give assurances that—

"(1) in selecting students to participate, (A) special consideration will be given to veterans qualified for vocational rehabilitation under chapter 30 of title 38, United States Code, and to other handicapped students (provided in either case that their handicaps do not make their working with homebound children ineffective); and (B) among students otherwise equally eligible to participate in the program, preference will be given to those having greater financial need,

"(2) the program will be administered by the local educational agency in accordance with its rules and regulations relating to homebound instruction,

"(3) participation in the program will not interfere with the academic progress of participating students,

"(4) compensation paid to participating students will be set by agreement between

the local educational agency and the student's institution, the maximum to be established at the direction of the Commissioner. In no case shall the compensation be established below the prevailing minimum hourly wage,

"(5) funds will be used in such manner as to encourage equipping the homebound handicapped children for eventual full assimilation by society, with every effort to avoid development of a segregated, permanent system of education for the handicapped, and

"(6) 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 handicapped children, and in no case supplant such State, local, and private funds.

"APPLICATION

"SEC. 672. (a) The Commissioner shall make grants under this part to State educational agencies on the merits of their proposals to him which shall be submitted on such application forms and under such giudelines, as he shall prescribe. Proposals shall contain, among other information as required by the Commissioner (1) all data from local education agencies' proposal to the State, as is required to support the total amount of funding requested by the State; (2) the State's detailed plans for conducting or providing for the conduct of, evaluation of the program supported under this part; and (3) the State's detailed plans for locating and identifying all of its homebound children who could benefit from this program.

"(b) An amount not to exceed 10 per centum of the total funds awarded to a State under this part shall be available to the State for it and its local education agencies to administer the program.

"AUTHORIZATION AND APPROPRIATION

"SEC. 673. There are hereby authorized to be appropriated $55,000,000 for the fiscal year ending June 30, 1974, and such sums as may be necessary for fiscal year ending June 30, 1975, and for fiscal year ending June 30, 1976, for carrying out the provisions of this part.

"ALLOTMENTS TO STATES

"SEC. 674. All of these sums shall be granted at the discretion of the Commissioner; however, the Commissioner shall set aside 25 per centum of the total appropriation and preliminarily allocate (but not automatically grant) to each State (as defined by section 602(6)) an amount which bears the same ratio to such amount as the number of children aged three to twenty-one, inclusive, in the State bears to the number of such children in all the States. The Commissioner shall approve or disapprove applications from the States, and any funds preliminarily allocated to a State whose application is disapproved, or which fails to file timely application, shall be added to, and be included for distribution under, the remaining 75 per centum of the funds. The Commissioner shall not disapprove any State's application until he has offered and (if the State accepts his offer) provided technical assistance to that State in an effort to bring that State's application to a level of approvable quality, so that the State may then be granted its proportionate share of the 25 per centum set aside, and, if then applicable, an appropriate portion of the remaining 75 per centum."

By Mr. KENNEDY (for himself and Mr. HART):

S. 1723. A bill to provide for the continued supply of petroleum products to independent oil marketers. Referred to the Committee on Commerce.

By Mr. KENNEDY (for himself and Mr. HART):

S.J. Res. 105. Joint resolution providing for the orderly review of fee-paid oil import licenses. Referred to the Committee on Finance.

INTRODUCTION OF INDEPENDENT OIL MARKETERS SUPPLY ACT OF 1973 AND JOINT RESOLUTION ON IMPORT SYSTEM

Mr. KENNEDY. Mr. President, I am introducing two measures today with Senator HART designed to halt the destruction of the independent segment of the American Petroleum industry. I am pleased that Congressman TORBERT MACDONALD is introducing companion legislation in the House.

The first bill, the Independent Oil Marketers Supply Act of 1973 would prevent the major oil companies and refiners from engaging in anticompetitive activities. Failure to halt these activities will mean the disappearance of thousands of independent companies who market gasoline and fuel oil.

The second measure, a joint resolution, will establish procedures under the new oil import program to condition the issuance of fee-paid licenses on a review of the marketing practices of the major oil companies and on their actions toward independent marketers and refineries.

The plight of the independent petroleum marketer and the small independent gasoline station has been documented in Senate testimony and headlines across the country describing the closings of independent gasoline stations.

Supplies to independent petroleum marketers are being cut off. The policies of the majors during this period of shortage is simple—to serve their own wholly controlled subsidiaries and to deny access to the independent dealers.

The shortage is clear and Government spokesmen are finally admitting that past policies have been abysmally inadequate. Yet the new import policies promise merely to increase the difficulties of the independent sector of the market.

On March 23, Office of Emergency Preparedness Acting Director Darrell M. Trent stated:

. . . spot shortages could occur much sooner this year because of the poor inventory position. As in the past, the independent gasoline retailers will probably experience shortages of gasoline first.

On April 5, Mr. Trent, according to an OEP release—

Expressed concern over both the current stock of inventories and production of gasoline by U.S. oil company refineries . . . Last week, U.S. refiner operations plunged to 88.7% of capacity—the lowest refining level of any period since early December 1972.

He then cited the reported closings of service stations owned by independents.

In a recent visit to my own State, independent stations already had shut their doors. The Independent Oil Men's Association of New England has reported nearly 100 stations closing already in the region. Reports from the Southeast of the country are similar and throughout the Nation, many nonbrand dealers are finding it necessary to reduce their hours of operations or to restrict the amount their customers may purchase.

Nor are we talking about a minor aspect of the supply picture. In New England, one-third of all gasoline stations are owned by independent distributors, some carrying major brands and some unbranded. In Massachusetts, 32 percent of all gasoline sold is by branded and unbranded independent wholesalers. Nationwide, the independents market between 20 and 25 percent of all retail gasoline. In some cities and States, their share of the market is substantially greater.

Yet they are being driven out of the market as their suppliers deny them the gasoline they need to survive. And what is particularly distressing, there has been little effort in any of the administration's actions thus far, to bring them relief. Last Tuesday, May 1, Deputy Secretary of the Treasury William E. Simon told the Senate Interior Committee that—

We should not let the independent segment of the industry be forced to shut down.

But he went on to add:

I would prefer to work, as we have done up to now, through incentives. It is better to encourage the major oil companies to do what we want them to do by their own choice, rather than try to force them to do it.

If we want the independent to survive, we are going to have to use the force of law to do it. Hearings before the Senate Antitrust and Monopoly Subcommittee have clearly provided evidence that the independents are the basic elements necessary to preserve competition in the oil industry, holding down cost and providing buyers with a choice in the marketplace.

I would emphasize as well that while the headlines focus on the gasoline crisis today, when fall comes we will be told of likely shortages of fuel oil and by winter we will face those additional shortages. And once again, only the majors will have the assurance of knowing they have control over supply from both the foreign and domestic well to the Boston heating furnace.

And the administration's recent energy message will abet the majors if they decide to carry out predatory policies. The Oil Policy Committee requested information from independent oil marketers before making their recommendations to the White House. They were told a minimum of 150,000 barrels of imported home-heating oil was needed and probably closer to 190,000. After much consultation, they and New England Senators as well were assured that 100,000 barrels per day would come in free from tariffs.

Somehow the decision was altered in a way that can only benefit the major oil companies. The independents were allowed 50,000 barrels free. Now they face a shortfall of some 150,000 barrels a day and they will be bid right out of business for the remaining barrels of oil by the majors.

In 1959, when the voluntary oil import quota system was established there were 24 independent terminal operators. By 1971, there were only seven, the remainder were taken over by the majors, according to the New England Fuel Institute. Now, the scenario is established under present policies for the final eclipse of these independent competitors.

If there is any doubt about the power

of the majors, it merely should be noted that the five largest companies earned profits of over $11 billion during the past 3 years. According to a House Small Business Committee report, the 23 largest oil companies account for 84 percent of the oil-refining capacity, 72 percent of the natural gas production and reserve ownership, 30 percent of the coal reserves, and 50 percent of the uranium reserves. Clearly, they have the economic muscle to endure any short-term costs to outbid the independents this year so that their monopoly will be complete in future years.

For that reason, I am introducing these two measures. The first declares it to be an unfair trade practice under the Federal Trade Commission Act for majors to refuse to supply independents reasonable quantities of gasoline, home heating oil, diesel fuel, and to drive at reasonable prices based on their historical patterns. Majors may not reduce supplies to independents by any more than they reduce their own wholly controlled outlets by the same amount. Nor may they raise the price to the independent by any more than they raise the price to their subsidiaries.

The bill exempts the small refiners—those companies with total refinery runs in all facilities of under 30,000 barrels per day.

The second measure attempts to provide formal procedures for the consideration of marketing practices of the majors before they were permitted to import oil from abroad.

It provides that a requirement for the issuance of a license to import by the majors will be that they continue to supply small independent refiners and independent marketers in reasonable quantities and at reasonable prices based on past supply relationships.

By requiring procedures for independents to have the opportunity to present evidence on the quantities and prices of crude oil and products, we will insure a self-policing element to the import program.

These review procedures can and should be established immediately by administrative action. However, in the absence of such action. I believe this measure is needed.

Both measures seek to prevent a coalescing of policies by Government and industry whose effect is to destroy the independent sector of the oil industry.

I ask unanimous consent that these measures be printed at the conclusion of my remarks along with relevant supporting documents.

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

S. 1723

A bill to provide for the continued supply of petroleum products to independent oil marketers

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 "Independent Oil Marketers Supply Act of 1973."

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds that—

(1) Present and prospective shortages of petroleum products constitute a serious threat to the survivial of independent marketers and small businessmen.

(2) Such independent marketers provide an essential element of competition by offering alternative sources of supply and lower prices to consumers.

(3) The demise of the independent marketers will result in the petroleum market being completely controlled by a small number of large integrated refining companies.

(b) The purpose of this Act is to assure that independent marketers of gasoline, home heating oil, and other petroleum products are not subjected to unfair methods of competition and unfair trade and marketing practices during periods of supply shortage.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "refiner" means a person engaged in commerce in the business of refining crude oil into petroleum products, whose total average refinery input of crude oil exceeds 30,000 barrels per day;

(2) "independent marketers" includes, but is not limited to, terminal operators, jobbers, dealers or distributors, at the wholesale or retail level, marketing under a refiner brand or a private brand, which are not owned or controlled by a refiner;

(3) "controlled marketers" includes, but is not limited to, terminal operators, jobbers, dealers or distributors, marketing under a refiner brand or a private brand, which are owned or controlled by a refiner;

(4) "petroleum product" means gasoline, No. 2 fuel oil, diesel fuel, kerosene; and

(5) "base period" means the period from October 1, 1971, through September 30, 1972.

PROHIBITED ACT

SEC. 4. (a) No refiner who during the base period was in the business of furnishing any petroleum product to controlled marketers for resale or sale to the public shall fail to offer to supply that product to independent marketers at reasonable prices in reasonable quantities, so long as he continues to furnish that product to controlled marketers.

(b) It shall be, prima facie, a violation of the provisions of subsection (a) for any refiner—

(1) to fail to offer to supply to an independent marketer, during any calendar month beginning after the date of enactment of this Act, a quantity of any petroleum product not less than the quantity that was supplied by him to that independent marketer during the corresponding month of the base period reduced by a percentage not to exceed the greater of—

(A) the percentage by which the quantity of such product furnished by the refiner to controlled marketers during the month next preceding was reduced from the quantity furnished to such controlled marketers during the corresponding month of the base period, or

(B) the percentage by which crude oil processed by that refiner during the month next preceding was reduced from the quantity processed by him during the corresponding month of the base period; or

(2) to sell a petroleum product to an independent marketer at any price during such month which is greater than—

(A) the average price at which he sold such product to such independent marketer during the corresponding month of the base period, increased by

(B) a percentage equal to the percentage by which the average price for such product sold during such month to controlled marketers exceeeds the average price for such product sold to such controlled marketers during the corresponding month of the base period.

UNFAIR TRADE PRACTICE

SEC. 5. Violation of the provisions of section 4(a) of this Act shall be an unfair act or practice in commerce in violation of the provisions of section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

SEC. 6. The Federal Trade Commission shall report to the Congress within 6 months of the date of enactment of this Act whether any additional legislation is required to prevent acts or practices in commerce which adversely affect any independent marketer as defined in this Act.

S.J. RES. 105

A joint resolution providing for the orderly review of fee-paid oil import licenses

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Oil Policy Committee and the Office of Oil and Gas, Department of the Interior, shall establish by regulation formal procedures for review of applications filed by refiners for fee-paid licenses under the provisions of section 3 of Proclamation 3279, as amended, and section 32 of the Oil Import Regulation (Revision 5) prior to the issuance of such licenses.

(b) Such procedures and regulations shall provide that—

(1) every application filed by refiners for imports of crude oil, unfinished oils, and finished products into Districts I–IV, District V, and Puerto Rico be subject to review prior to issuance;

(2) such review consider the quantities and prices of crude oil which such refiners are making and intend to make available to small independent refiners;

(3) such review consider the quantities and prices of gasoline, No. 2 fuel oil, diesel fuel, or kerosene which such refiners are making and intend to make available to independent marketers of such products;

(4) such review provide independent refiners and marketers the opportunity to present evidence relating to the quantities and prices of crude oil and products supplied to them by refiners; and

(5) upon request made by an independent refiner or marketer, the Office of Oil and Gas will make a formal finding, supported by evidence, that an application from a refiner is accepted or denied.

(c) Any fee-paid license issued to a refiner for imports of crude oil, unfinished oils, and finished products into Districts I–IV, District V, and Puerto Rico, shall require that refiners supply to small independent refiners and independent marketers crude oil, unfinished oils, and finished products in reasonable quantities and at reasonable prices based on past supply relationships.

[From the Boston Sunday Globe, Apr. 15, 1973]

INDEPENDENT GAS STATIONS HIT HARD

(By Robert J. Anglin)

The possibility that the tight supply of petroleum has led some major suppliers of gasoline to favor their own retail outlets at the expense of independent distributors may lead to antitrust actions.

Connecticut already has moved in that direction and Massachusetts authorities are looking into the situation, prompted by the fears of some in the industry that the days of the small, independent gas station chains are numbered.

Should this take place because of the tendency of the major companies to take care of their own during hard times, the consumer would lose out. Traditionally the independents sell their gasoline a few cents cheaper a gallon than the major companies.

Then there is the element of competition. Independent gasoline brands and the independent "jobbers" account for about 30 percent of the New England gasoline market. Jobbers are individuals who own one or more gas stations, but who operate under the brand name of a major company.

In Connecticut a week ago, 31 gasoline distributors were subpoenaed by Atty. Gen. Robert K. Killian to explain their involvement in a reported effort by five major oil companies to ration supplies in the state. The distributors have until next Thursday to supply information concerning gasoline supplies and their correspondence with the companies since Jan. 1, 1971.

Killian also called upon US Atty. Gen. Richard Kleindienst to empanel a Federal grand jury to determine if there is a national conspiracy to limit gasoline sales. Killian said late last week that he has had no reply as yet.

Nor, he said, has there been a reply from John P. Dunlop, director of the Federal Cost of Living Council, who was asked to supply information detailing what impact gasoline and petroleum price ceilings would have on Connecticut.

Killian said the purported national gasoline shortage "may well have been created deliberately to drive the independent dealers out of business and drastically increase the wholesale and retail price of gasoline."

He supboenaed distributors of Atlantic Richfield (Arco, BP Oil, Cities Service, Mobil Oil and Texaco).

Atty. Gen. Robert H. Quinn's office is exploring the possibility of initiating similar action in Massachusetts. Staff attorneys are inquiring into the practices of the gasoline industry to determine if the policies of major suppliers are hurting the small, independent distributors.

Asst. Atty. Gen. Hugh O'Malley, acting chief of the Massachusetts Consumer Protection Division, said: "I want to talk to the people involved to find out the impact of the so-called rationing program and see if there is any determined, concerted effort to cut off allocations to the independent distributors, who are very concerned what effects the possibilitity of rationing may have on them.

"After an inquiry we may well serve subpoenas on the major companies to determine their relationships with the independents in the past and whether that is changing.

"If there is a violation we are concerned, and we would be alarmed if the Anti-trust Division of the U.S. Department of Justice did not become very active in this because of its national scope," O'Malley said.

John Neeley of the Massachusetts Office of Consumer Affairs, said: "The most immediate problem is whether the independents survive. In the past they relied upon the major companies for the bulk of their supplies. As supplies get short, they are the first to get cut off," he said.

Neeley said that some gas stations might close, either because they can't get gasoline or because they have to pay too much for imported petroleum to sell it at a profit.

John Buckley, vice president of Northeast Petroleum, which operates about 115 stations in Massachusetts, Maine, New Hampshire and Rhode Island under the Old Colony brand—said: "It's going to be a tight summer." He said, however, that his company has no immediate plans to close any stations.

Killian said of his subpoenas to the 31 distributors: "We've asked a lot of questions, the answers to which I expect will determine whether or not there has been a combination of prior arrangements in allocations or of limiting gasoline to the distributors."

[From the Sunday Boston Globe Apr. 15, 1973]

AS NORTHEAST FEELS FUEL SHORTAGE'S BITE

(By Viola Osgood)

The question of a gasoline shortage may no longer be debatable. Boston and five suburban communities already face the possibility of a fuel shortage for police cars, fire engines and other municipal vehicles.

The gasoline shortage seemed more a reality Friday when the City of Boston, for a second time, received no bids for its annual gasoline contract. A joint contract was advertised by Brookline, Newton, Belmont, Watertown and Waltham and also came back bidless.

The shortage is not confined to municipalities. Not since World War II have gasoline stations closed down at the rate they are now. Many shorter hours of operation for lack of gas supplies.

Independent stations are closing all over New England, as well as the rest of the country. Sure Oil Co. of Worcester, has closed 12 of its 50 stations. Gibbs Oil, the largest independent dealer east of the Mississippi, has closed 15 stations and is afraid it may have to close 21 more. A Tulsa station in Winchester has shut off its pumps.

Major oil companies have curtailed the amount of gasoline they will sell to independent distributors and many have even alloted the amounts supplied to their own stations.

Almost all sources agree that the gasoline shortage is due to several factors: dwindling stocks of unrefined crude oil in the face of a worldwide tightness of supply; not enough refineries to meet the rapidly growing demand (no new refineries have been built in this country in two years and none are planned); antipollution devices on new cars, which greatly increases gas consumption; and inaccessibility of oil discovered on the North Slope of Alaska.

One thing all sources—major and independent oil dealers, Federal officials and congressional committees—agree on is that America is facing a gasoline shortage this summer.

Rep. Silvio O. Conte (R-Mass.) said another reason there is currently a shortage of gasoline in the country is that last winter refineries shifted much of their capacity to home heating oil and are just now switching back to gasoline production.

Conte said the independent distributors are being hit hardest by the gasoline shortage and the situation for them is "pretty grim." The independent marketers have captured about 22 percent of the retail gasoline trade in the country.

He said a bill in the House would authorize the President to ration gasoline at the wholesale level, thereby insuring that no region of the country is less supplied with gasoline than others.

Although New England is feeling the effects of the gasoline shortage, "The upper midwest is probably hit worse," Conte said. He said seven major oil companies already have pulled out of some midwestern states.

A spokesman for Sen. Edward Kennedy (D-Mass.) said the senator is concerned that refineries are operating below capacity. Kennedy has urged a greater increase in oil imports as well as more pressure by the Administration on refineries to completely utilize capacity.

Production in refineries is currently running about 42 million barrels per week, but Americans are buying about 43 million barrels per week. The excess is coming from gasoline inventories which are about 16 percent below those of a year ago. This summer's demand is expected to reach 50 million barrels per week.

Conte said the Cost of Living Council has ruled that the major oil companies cannot increase prices more than one percent between now and June and not more than one and one-half percent thereafter.

Further exacerbating the problem of the gasoline shortage are the 11 million new cars that came on the highways last year. In addition to the anti-pollution devices, many of them are equipped with air conditioners and other power options that further reduce gas mileage.

Darrell Trent, acting director of the U.S. Office of Emergency Preparedness, said state and local governments can aid in easing the tight gasoline situation by setting good examples in purchasing smaller vehicles and curtailing all unnecessary use of state and city vehicles.

Some Federal officials have suggested reducing speed limits as a means of conserving the gas supply. John Buckley, vice president of Northeast Petroleum, said that reduced speeds would conserve gasoline. He attributed almost half the increase in demand for gasoline over the past year to lowered efficiency for car engines due to emission control devices.

Buckley said that while the supply and demand problem is only being felt slightly at the retail level now, it will be felt a "heck of a lot in the summer."

Texaco, the nation's largest marketer of gasoline, has acknowledged spot shortages of gasoline supplies this summer and plans "to run its domestic refineries to the maximum available capacity and also to manufacture and supply as much gasoline as possible during the summer motoring season."

Texaco is already allocating its distributors only as much fuel as they received last year, even though demand is up about six percent over last year. Texaco has urged that government import policies facilitate access to crude oil supplies while recognizing that "the high costs of imported crude and imported products must be recovered in the market place."

Mobil Oil has suggested that the nation use all its energy more efficiently and control automotive emissions in a way that won't waste so much gasoline. Mobil also suggests that the Alaskan pipeline be built and that financial incentives be permitted to build more refineries.

Mobil further suggests that since the oil situation is tight everywhere and the United States can't import enough crude oil alternative fuel supplies such as coal, oil shale and nuclear power be sought.

Almost every other supplier, especially independents, is strongly in favor of more imports. The US is now importing more than 10 percent of its oil compared with five percent in 1970. By 1976 the projection is that America will be importing more than 50 percent of its oil.

In an attempt to alleviate the fuel shortage, President Nixon plans to abolish oil import quotas and to ask Congress to end Federal regulation of natural gas prices.

Oil industry sources say, however, that unless environmental restrictions are relaxed and more refineries are built, more oil will not necessarily mean more fuel.

And while some independent marketers suspect that major oil companies have contrived the shortage to force them out of business, drive up prices, and silence environmental critics, the overriding consensus seems to be there is not enough crude oil and not enough refineries.

[From the Washington Post, Apr. 16, 1973]

GASOLINE RUNS SHORT THROUGHOUT THE UNITED STATES

(By Thomas O'Toole)

What began 10 days ago as spot scarcities of gasoline in a handful of states has now blossomed into a coast-to-coast shortage.

It is not so bad that motorists can't buy gasoline, but it is serious enough to have forced the closing of hundreds of discount and off-brand gas stations whose supplies have been cut off by the major oil companies. It is also bad enough to have closed major-brand stations in states like Minnesota and Florida that are at the end of the gasoline distribution network.

"These are the states that are on the drag end of the pipeline system," said an official

of Gulf Oil Corp. "Things are very tight right now in Florida, where there isn't even a refinery to help things out."

The Middle West has been hit hardest by the shortage. Metro 500 of Minneapolis has closed 21 of its 22 stations. All last week, gas stations in northern Illinois found themselves out of either regular or premium gasoline. Gas stations throughout Iowa were being rationed to between 70 and 90 per cent of what they got last year, even though demand was running 10 per cent ahead of last year's pace.

Oil jobbers (wholesale distributors) insisted it would get worse in the Middle West. Over the weekend, a refining subsidiary of Kerr-McGee Oil Co. named Triangle Petroleum closed its storage terminals in Des Moines, Kansas City, Chicago and Madison, Wis., a move that cut off independent distributors in a four-state region from a 25 million gallon gasoline supply.

"There's no question it's going to close a lot of independents," said William Deutsch, who represents all the independent marketers in Illinois. "It will even put some of the branded stations in trouble."

Things were almost as bad in New England, where an average of five stations were closed in both Connecticut and Massachusetts each day of last week.

Sure Oil Co. was forced to close 12 of the 50 stations it runs in Massachusetts and Connecticut. Sure said it had been getting 40 tankloads of gasoline per week, was cut back to 20 two weeks ago and has been told it will be down to 10 in another two weeks.

Rural Connecticut has been hit especially hard. Sure closed three Save-Way stations selling the only discount gas in the farm country of eastern Connecticut. Several distributors of bulk gasoline in the same region of the state have been told they will get no gas next month, which means that the farmers they serve exclusively will have trouble getting gas for their tractors.

Further south, things aren't that bad but neither are they very good. The Greenbelt Consumer Services, Inc., which runs a chain of 10 stations that discount BP gasoline in the Washington area, has just been told that the 9 million gallons that BP supplies it with every year will not be forthcoming after July 9.

"They've cut us off from the only supply of gasoline we've had for the last 10 years," said Eric Waldbaum, president of Greenbelt Consumers Services. "We've gone to other suppliers, who have all told us they don't have enough to service us or any other new customer that might come along."

One of the ironies of the sudden shortage of discount gas is that the major oil companies are getting into the discount business at the same time that the independents are being forced out of it.

Exxon is now marketing discount gas under the brand name Alert at 16 stations in four states. Gulf discounts gas under two labels, Economy and Bulko. Shell markets it under the brand name Ride, Mobil under the name Cello. Phillips Petroleum discounts Blue Goose and Red Dot gas.

The emergence of the big discounters comes at a time when major oil companies are closing their unprofitable brand name stations all over the U.S.—stations that are more than 300 miles from a refinery, have only a few pumps and do auto repair.

Exxon is in the process of closing 150 of its 400 retail stations in Illinois, Michigan, Wisconsin and Indiana. Gulf has put up for sale 3,500 stations in 21 states, from Illinois across the country to California and Washington State. BP has already pulled out of the Northeast, and Sun Oil Co. has withdrawn from Tennessee and most of the upper Midwest. Cities Services, Atlantic Richfield and Phillips Petroleum are also closing stations.

The oil companies insist that the big reasons for the gas shortage are a worldwide shortage of "sweet" (low sulfur) crude oil and nationwide shortage of refinery capacity. The claim they need five new refineries a year to keep up with demand. They point out that not one new refinery is being built in the U.S. today.

The refinery shortage is so acute that the independent refineries find themselves being courted with more fervor than at any time in memory. An aide to Rep. Robert H. Steele (R–Conn.) claims that the competition for refined products like gasoline is one reason Sure Oil has had to close some of its Connecticut stations.

"The company was about to negotiate a contract with a Canadian refinery," the aide said, "when a major oil company offered to buy the refinery's product at the same prices Sure offered but won the contract when it guaranteed to supply the refinery with crude oil."

The head-to-head combat between the major oil suppliers and the independent distributors is bound to get worse as the gasoline shortage gets worse.

Greenbelt Consumer Services has filed a formal complaint with the Federal Trade Commission protesting the move by BP that will cut them off from gasoline, and in the only known court action so far a federal judge in Phoenix ordered Phillips Petroleum to restore gasoline sales to a discount chain it tried to cut off.

Meanwhile, the gasoline shortage itself promises to get worse as motorists take advantage of the improving weather. Last week, Detroit, Indianapolis and Boston reported that they did not receive a single bid for contracts to fuel city vehicles. For the first time in history, they faced the prospect of being unable to run police cars and fire trucks because of the gasoline shortage.

[From the New York Times, Apr. 23, 1973]

ENERGY INDUSTRY PROFILE: GIANTS POPULATE THE WORLD OF FUEL

(By James J. Nagle)

The production of energy is the world's second largest industry, exceeded only by agriculture in its essential importance to modern society.

It is also believed by many to be the world's most potentially explosive industry in political terms because it is essential to the size and the growth of the modern industrialized state.

Fossil fuels—oil, coal and natural gas—supply most of the world's energy needs, with nuclear power starting to play an increasingly important role. Hydroelectric power, geothermal (heat from within the earth) and wood make minor contributions to the energy mix. Other known sources, such as solar heat, are not expected to be much of a factor before the next century.

GOVERNMENT ROLE IN WEST

The control of energy varies throughout the world. In Communist countries and in many developing nations, the energy complex, including the sources, is controlled entirely by the state.

Last Wednesday, President Nixon outlined an energy policy that, he said, is designed to minimize shortages of fuels and power while the United States strives for greater development of its domestic energy resources, especially coal, offshore oil and natural gas.

In some Western countries the Government also owns all or part of the energy resources. For example, in Italy, the state owns Ente Nazionale Idrocarburi, which explores, produces, refines and markets oil and natural gas. In France, the Government owns Entreprise de Recherches et d'Activities Pétrolieres and also owns 35 per cent of Compagnie Francaise des Pétroles. In Britain, the Government holds a 48.6 percent interest in the British Petroleum Company, Ltd.

In the United States, which consumes about 33 per cent of the world's output of energy although having only 6 per cent of the population, the energy industry is generally privately owned. However, utilities, which produce electricity from fossil fuels or nuclear sources, are regulated by the Government and, in some major cases, such as the Tennessee Valley Authority and the Bonneville Power Administration, are actually owned by the Federal Government.

For much of this century, seven major integrated oil companies, often called the "seven sisters," have been the most dynamic factors in the world energy picture.

FIVE ARE AMERICAN

Five of them are American: The Exxon Corporation, formerly the Standard Oil Company (New Jersey), the Mobil Oil Corporation, Texaco, Inc., the Gulf Oil Company and the Standard Oil Company of California.

One is British: British Petroleum. And one is British and Dutch: the Royal Dutch Shell Group.

But all are what is known now as multinational.

The largest energy company in the world is Exxon, which last year had profits of $1.5-billion on revenues of $22.4-billion. Its sales were the second largest for any industrial enterprise in the world, behind the General Motors Corporation, but Exxon had larger assets.

Eight American oil companies in addition to Exxon rank among the 25 largest corporations in the Fortune list of the biggest 500: Mobil, Texaco, Gulf, California Standard, the Standard Oil Company (Indiana), Shell, Atlantic Richfield, and Continental.

NATURAL GAS IS BY-PRODUCT

Almost all of these companies have natural gas reserves as a by-product of their exploration for oil. It is estimated that 11 of the 25 largest oil companies also have holdings in coal and that 18 have uranium interests.

Exxon also has large coal reserves in Illinois, Wyoming, Montana, North Dakota, along with a uranium mine in Wyoming. Continental Oil owns the Consolidation Coal Company—the largest coal concern in the country—and also has uranium interests. The Kerr-McGee Corporation, basically an oil company, is said to be the largest uranium producer, accounting directly and through others for about 27 per cent of the total uranium output in the country.

Other major oil companies with substantial interests in coal or uranium, or both, include Mobil Oil, Standard Oil of both California and Indiana, Texaco, Shell, Phillips Petroleum, Atlantic Richfield, Cities Service, Sinclair Oil, the Getty Oil Company, the Sun Oil Company, Pennzoil United, Inc., Amerada-Hess, and Ashland Oil.

UNITED STATES HAS SMALL OPERATORS

The oil industry in this country differs from that of much of the rest of the world in that there are small operators at both the production and marketing ends of the chain. The major companies, however, are dominant in both.

The industry is broken down into integrated and nonintegrated companies. The former handles the oil and its products all the way from the wellhead to its final sale at the gas pump. Nonintegrated companies participate in only part of the operation, such as refining or marketing.

Natural gas is sold to pipeline companies, which, in turn, sell it to utilities and other major users. Coal companies are mostly integrated, that is, they usually do both the mining and marketing themselves to their major customers.

A secondary but rapidly growing segment of the nation's energy mix is made up of the utilities that produce electricity. There are an estimated 3,242 Government and privately owned utilities, which are major users of oil, coal and gas as well as in recent years, nuclear power.

LITTLE NUCLEAR POWER

Thus far, there is relatively little nuclear power, and most of it is used by utilities to generate electricity in the East Coast and North-Central regions. The list of companies utilizing this prime energy source is growing. The first nuclear plant in operation was that known as the Dresden I, completed in 1959 by the Commonwealth Edison Company of Chicago, which has since built five more and has another under construction.

At present there are 16 utility companies, including Commonwealth Edison and the Consolidated Edison Company of New York, with nuclear plants. They and others are planning to establish 13 more plants in the late nineteen-seventies or early nineteen-eighties.

As for water power as a source of energy, the mountain streams and rivers on the West Coast are the chief source of supply, accounting for as much as 59 per cent of the total of hydro power used throughout the nation. It is used chiefly for creating electricity.

Numerous other companies also supply one or more of the prime energy sources—for example, the Pittston Corporation, a diversified company, is in coal mining and petroleum distribution.

Last Thursday Pittston filed with the Maine Board of Environmental Protection an application for construction of a $350-million oil refinery at Eastport, Washington County, Maine, which would process daily 250,000 barrels of fuel with a low sulphur content.

Others include the Kennecott Copper Company, operator of 41 bituminous mines in nine states in this country and one in Australia; the General Dynamics Corporation, and Eastern Gas and Fuel Associates. Eastern Gas is the sixth largest commercial producer of bituminous coal in the United States.

RAILROADS HOLD MINERAL RIGHTS

Most of the land that provides oil and gas and coal is not owned by the producers of energy. In this country much of it is the property of railroads. For example, the Burlington, Northern, Inc., a diversified transportation and natural resources company, owns 2.38 million acres of land and holds mineral rights in another 6 million acres. Other large landowners include forest products companies, farmers and real-estate developers.

About half of the oil and gas resources in the United States however, are in public lands, primarily the Outer Continental Shelf.

CONCERN BY CONGRESS

The fact that all the major and many of the smaller oil companies are in other aspects of the energy business is causing some Congressmen to fear that the nation's energy supplies are dominated by a few companies.

The House Small Business Committee said not long ago that as of 1971, the 23 largest oil companies accounted for 84 per cent of the oil refining capacity of the country; 72 per cent of the natural gas production and reserve ownership; 30 per cent of the coal reserves, and 50 percent of the uranium reserves.

A recent Federal Trade Commission study has tentatively concluded that the acquisitions by the oil industry have led to only a small increase in concentration of ownership of energy resources. The study, however, was based on production, not reserves, which means proved amounts of materials in the ground.

[From the New York Times, Feb. 26, 1973]

IMPACT MINIMIZED IN FUEL MERGERS

(By Edward Cowan)

WASHINGTON, Feb. 25—The Federal Trade Commission's staff has tentatively concluded that a series of mergers in the nineteen-sixties between oil companies and coal and uranium producers has led to only a small increase in concentration of ownership of energy resources.

The first draft of a study by the commission's Bureau of Economics is virtually complete. Reliable sources indicate that the report, to be issued next summer, is likely to disappoint those critics of the oil industry who believe the Government should be attacking such "interfuel" mergers on antitrust grounds.

The sources report that the increase in concentration of ownership shown by their calculations "won't be so large that its significance is immediately obvious to everyone."

At issue is whether even a small increase, past or prospective, in the proportion of the fuel industries owned by the largest companies should be regarded as an incipient trend toward monopoly that violates the Clayton Antitrust Act. There is no statute of limitations for seeking to undo such violative mergers.

Interfuel ownership is regarded as a question for thorough examination because of the prospect that technological advances will make fuels increasingly interchangeable and hence competitive. Federally subsidized research is under way on methods of turning coal into gas and oil.

Development of such techniques at commercially acceptable costs and with acceptable environmental consequences could intensify competition between coal, which exists in vast abundance in this country, and oil and natural gas. What the Federal Trade Commission wants to know is the probable effect on such competition of common ownership.

An economic report published by the commission a year ago found a high degree of interfuel competition in the electric utility industry. The author, Thomas D. Duchesneau, suggested that common ownership of the largest producers of the principal fuels could tend to diminish the competitive effects arising from the increased growth of substitute fuels.

One shortcoming of the study of interfuel mergers, the authors acknowledge, is that it is based on production rather than underground reserves of coal, oil, natural gas and uranium. Reserves are generally understood to be proven deposits or pools of minerals that can be extracted at reasonable cost.

The commission's economics staff believes that reserves would give better clues to the results of mergers because the reserves are a critical factor in determining how much individual producers can supply. But such information on individual companies is not available in most cases, according to the officials.

The study is likely to recommend that Congress require energy companies to report their reserves to some Government agency.

In a separate development, the commission is about to ask the Justice Department to take to court nine natural-gas producers that have allegedly refused to submit information on gas reserves that was demanded by the commission under its subpoena power.

TWO COMPLIED

Two other producers are said to have complied and one of the nine to have complied in part. Officials would not disclose the companies' names.

The data are wanted because the agency is trying to determine whether natural-gas reserve figures published by the American Gas Association tend to understate the facts. In addition, the commission wants to know whether any such under statement, if it has occurred, has resulted from collusion.

The association has reported decline in reserves in the 48 contiguous states in each of the last four years. The association publishers aggregate figure based on reports from individual producers.

It has given the commission its data for individual companies. The agency staff wants to compare those figures with data submitted by the companies in response to subpoenas. One such comparison, it is said at the commission, has shown the figures submitted to the American Gas Association to be low.

The 11 producers that have been ordered to report their reserves to the commission are in Louisiana, offshore and onshore. They are regarded as a sample for the whole industry.

WITHHOLDING CHARGED

The investigation is being made because of widespread accusations in Congress and in consumer-minded circles that gas producers, among which the major oil companies figure prominently, have understated reserves and withheld supplies to create the appearance of a shortage and thereby push up prices.

Some analysts believe rather that higher prices for natural gas in the intrastate market, which is not subject to Federal regulation, have contributed to the shortage of natural gas available to interstate pipelines.

The study of concentration of ownership is reported to find that for each of the major fossil fuels the share of the market held by the four largest producers is less than the share in manufacturing. For all manufacturing industries, the average "big four" share was said to be 39 per cent.

The Federal Trade Commission staff has come up with preliminary calculations of 'big four" market shares of roughly 30 per cent for oil, coal somewhat higher but less than oil. For uranium, the fuel of nuclear electric-power staitons, the ratio may be above 39 per cent, it was said.

The study is reported to have found that on a combined basis, concentration as a result of interfuel mergers has risen only a little. Preliminary calculations indicate that the increase is less than 10 percentage points.

The commission has under way a private investigation into the best known of the mergers—the acquisition six years ago of Consolidated Coal by Continental Oil. The commission has not formally challenged the acquisition as anticompetitive.

[From Forbes magazine]

THE GREAT LAND RUSH OF 1973

In days of old when newspapers had Sunday supplements filled with wildly improbable stories, a perennial feature showed how it was possible to generate power from the heat of the earth's core. Like as not, it would carry pictures of one of the geysers of the American West, or the installation at Larderello, Italy, that had been generating electricity from natural steam since 1904.

Well, there are some new believers these days. Within two months, the Interior Department will put up for lease 59 million acres of potential geothermal federal land in 14 western states (*see map, which excludes North and South Dakota, Hawaii and Alaska*). About 1 million prime acres—where natural steam vents or hot water pools confirm the existence of thermal wells—are expected to go at competitive bidding for about $15 per acre per year. The rest, without obvious thermal signs but deemed geologically promising, will be leased at $1 per acre per year for ten years. If no geothermal steam is found, the lease can be converted to a mineral lease if anything else of value turns up.

There is, of course, a touch of magic in geothermal power. Wells sunk into the bowels of the earth yield apparently inexhaustible amounts of steam or boiling water whose heat can be used to spin turbines and

generate vast amounts of electricity. Vast amounts? A recent study sponsored by the National Science Foundation estimated that the U.S. geothermal resources could generate 132,000 megawatts of electricity by 1985, *vs.* a current total U.S. capacity of about 350,000 Mw. It uses no foreign exchange, as imported oil would. It would probably be the cleanest power ever generated. And it's cheap: Pacific Gas & Electric already generates power from steam in the Geysers area of California for 5.3 mills per kilowatt hour—just over half a cent—*vs.* 7 mills per kwh for other thermally generated power in California and 8.5 mills to 9 mills for nuclear power.

After all, there's no fuel cost for geothermal power.

If geothermal power is so good, why hasn't it been developed already? "Because there were power sources available where the absolute costs were going down and there were no uncertainties," says Dr. Martin Goldsmith of the California Institute of Technology "Coal and oil were cheap and readily available, and when you built a fossil fueled plant you knew exactly what it would cost, how much power you would get and how long the plant would last. This wasn't so with geothermal power. Now there are uncertainties with conventional plants, and the costs are rising."

Among the companies currently exploring and drilling for geothermal energy are Union Oil, Standard Oil of California, Getty Oil, Phillips Petroleum, Gulf Oil and Mobil Oil. Most of these are expected to apply for leases on the federal lands, and many not now exploring are also expected to be bidders.

An additional reason for the widespread interest is the promising nature of test surveys to date, such as carried out by Senturion Sciences, a Tulsa-based geothermal research company. "We have found six very likely areas out of 31 tests we have conducted," says Senturion's President John Bailey. "We use the surface geology and underground vibrations to show us the best places to look."

The Geysers area project, like most in operation or under construction around the world, uses natural dry steam to spin its turbine generators. But San Diego Gas & Electric (FORBES, *Apr. 15*), working with Magma Power, hopes to complete a plant this year that will use heat from natural hot water, a far more common natural resources. Its success, says the Center for Energy Information, will make the northern Gulf of Mexico another likely area. Because such hot water often contains corrosive or contaminating minerals, it may be pumped back into the earth after heat has been extracted.

But perhaps the best indication of the potential of geothermal power is rising congressional interest in the subject. Two bills are expected to be introduced this session of Congress to stimulate geothermal development. They will initiate a $10-million, five-year program of research into geothermal power techniques, and establish a loan program, backed by a $20-million revolving fund, to finance private exploration and power generation from geothermal areas, the recovery of mineral by-products and even the possible desalination of water as a side benefit.

By Mr. TUNNEY (for himself, Mr. BAYH, Mr. BENTSEN, Mr. BROOKE, Mr. CASE, Mr. CRANSTON, Mr. DOLE, Mr. EASTLAND, Mr. HASKELL, Mr. HUMPHREY, Mr. JAVITS, Mr. KENNEDY, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MONTOYA, Mr. PEARSON, Mr. WILLIAMS, and Mr. HART):

S. 1724. A bill to amend title 28, United States Code, to provide more effectively for bilingual proceedings in certain district courts of the United States and for other purposes. Referred to the Committee on the Judiciary.

THE BILINGUAL COURTS ACT

Mr. TUNNEY. Mr. President, in recent years we have witnessed a national effort to make the benefits of our legal system available to all Americans, whether rich or poor, old or young, black, white, or brown. Today I hope to contribute to this continuing effort. I believe that the legislation which I am introducing, the Bilingual Courts Act, will enable many Americans who in the past have been denied access to our Federal courts, or when actually in the courts, have been severely handicapped by their language disabilities to participate fully in our Federal court system. The non-English speaking of America have been the victims of generations of neglect. When seeking legal redress for wrongs inflicted upon them or when defending themselves in criminal or civil actions, they have had to participate in legal proceedings where the language employed was alien to them. To adequately represent one's interests in a courtroom, it is mandatory that there be a comprehension of all that is taking place. The Bilingual Courts Act attempts to remedy many of the inequities that now exist in our court system. By providing for the simultaneous translation of all courtroom proceedings—in a manner very similar to the method used by the United Nations—in both criminal and civil matters, the non-English speaking will be able to effectively participate in the Federal court system.

The Bilingual Courts Act will have a significant impact upon a vast number of persons residing in the United States. Most of us are well aware of the large Mexican-American population living in the Southwest. But in addition to the over 5 million Mexican-Americans in America, there are substantial numbers of other non-English-speaking minorities. Puerto Ricans comprise America's second largest national origin minority, numbering more than 2 million, one and one-quarter million living in New York City alone. In addition to the large Puerto Rican and Mexican-American communities in Chicago, there are large Puerto Rican communities in Boston, Philadelphia, and Newark. Though the Spanish-speaking minorities account for the majority of non-English-speaking persons in America, other minorities are concentrated in various regions throughout the country: the Chinese speaking in California, native Americans in the Continental United States and in Alaska, and the French-speaking persons in Maine and in Louisiana. Of course many of these individuals are already bilingual, and will not require the assistance provided by this comprehensive legislation. Nevertheless, there are many others who are in need of bilingual proceedings in order to secure justice. As a member of the Senate Judiciary Committee, which will have jurisdiction over this legislation, I will urge expeditious consideration.

The need for a Bilingual Courts Act is indeed critical. The sad state of affairs that now exists between the non-English-speaking minorities and the legal system in our country has been well documented in recent studies, most notably by the U.S. Commission on Civil Rights in its 1970 report, "Mexican Americans and the Administration of Justice in the Southwest." On the subject of court interpreters, the U.S. Commission found:

> Interpreters are not readily available in many southwestern courtrooms:
>
> (a) In the lower courts, when interpreters were made available, they are often untrained and unqualified;
>
> (b) In the higher courts, where qualified interpreters were more readily available, there has been criticism of the standards of their selection and training and skills.

Among the recommendations in the Commission's report on rectifying the language disability and inequality before the law was that the—

> Southwest should establish programs for the recruitment, training, and employment of court interpreters to be used in areas where there are large concentrations of Mexican Americans.

Various congressional committees also have found that in the areas of education, employment, and the administration of justice, national origin minorities have been discriminated against not only because of their color, but also because of their cultural and linguistic differences.

It is not surprising, then, that these minorities distrust America's institutions, including the courts, and view them as "Anglo" bastions, protectors of the status quo, and particularly insensitive to their needs. Since they feel that they cannot expect fair treatment, many of them express outright distrust and cynicism with regard to the law. Enactment of the Bilingual Courts Act can help to dispel these attitudes that we, as a nation, cannot afford.

The language barrier is one of the primary causes preventing many from becoming involved in our judicial system. The language disability affects not only their ability to defend themselves when in the courtroom but also their motivation to do so. To put it in another way, the language barrier acts as a "chilling effect" upon those who would otherwise seek justice within the legal system. Access to the courtroom and full participation once in it, must be available to everyone. How necessary it is that the very branch of Government assigned by the Constitution to uphold the law of the land must free itself from the influences of prejudice and discrimination, no matter how subtle or unintentional they may be.

The proposals contained in this legislation are certainly not novel or revolutionary. It is interesting to note that article 2(a) of the Canadian Bill of Rights, adopted in 1960, guarantees to every person the right to the assistance of an interpreter in any proceedings in which he is involved if he does not understand or speak the language in which the proceedings are conducted. The Constitution of the State of New Mexico explicitly provides that in all criminal prosecutions the accused is entitled "to have the charge and testimony interpreted to him in a language that he understands."

This bill is also not the first congressional attempt to eliminate the injustices suffered by those who must participate in legal proceedings where the language employed is foreign to them. On three occasions, Congress has enacted statutes which allow for the appointment of interpreters in cases involving indigents. Rule 28(b) of the Federal Rules of Criminal Procedure provides that a Federal district court may appoint an interpreter of its own selection and may fix the reasonable compensation of such interpreter.

In addition, the Criminal Justice Act of 1964, 18 U.S.C. § 3006 A(e) 1964, sanctions the payment for services other than counsel which are "necessary to an adequate defense," from the United States Treasury. On the civil side, rule 43(f) of the Federal Rules of Civil Procedure states that the:

> Court may appoint an interpreter of its own selection and may fix his reasonable compensation. The compensation shall be paid out of funds provided by law or by one or more of the parties as the court may direct and may be taxed ultimately as costs in the discretion of the court.

Though these provisions manifest good intentions, they may be inadequate to meet the demands of the situation. First, the terms of these provisions do not mandate the appointment of an interpreter. Second, and perhaps of most significance, these provisions do not offer any guidance to the Federal courts or establish any machinery to effectuate the policy enunciated in the statutes. There is a compelling need for congressional action to establish the requisite judicial machinery to protect those rights guaranteed by the Constitution. Legislation must be enacted that spells out the responsibilities of the Federal court, that standardizes procedures to insure that in those districts where significant numbers of non-English speaking persons reside, adequate facilities and competent interpreters will be available on request.

According to the statistics cited in the U.S. Civil Rights Commission Report—Mexican Americans and the Administration of Justice in the Southwest, page 72—the response of Federal courts, thus far, to the needs of the non-English speaking persons has been less than overwhelming.

According to the Administrative Office of the U.S. Courts, there are only four full-time Spanish-speaking court interpreters in the Southwest. In California, the Federal district court in San Diego employs one full-time interpreter. And even in those districts where interpreters are available, there is no uniform procedure on how they are to be utilized nor adequate translation facilities to insure simultaneous translation.

In addition to the fundamental fairness that this statutory scheme provides, there are other considerations that support the enactment of the Bilingual Courts Act. I submit that the fifth and sixth amendments to the Constitution may require that non-English speaking persons be provided with the simultaneous translation of all courtroom proceedings, in both criminal and civil matters. The sixth amendment states that in "all prosecutions, the accused shall . . . be confronted with the witnesses against him . . . and shall have the Assistance of Counsel in his defense." How can a defendant in a criminal proceeding be afforded these constitutional guarantees if he is unable to understand the language used in the courtroom? Such adjudication, it seems to me, loses it character as a reasoned and fair process.

The right to confrontation means much more than the mere physical presence of the accused and the witnesses against him. As the court in *Terry* v. *State,* 105 So. 386, 387 (1925), aptly stated:

> The accused must not only be confronted by the witnesses against him, but he must be accorded all necessary means to know and understand the testimony given by said witnesses * * * Mere confrontation of the witnesses would be useless, bordering upon the farcical, if the accused could not hear or understand their testimony.

Simultaneous translation of all courtroom proceedings is mandatory if the non-English speaking party is to be accorded his sixth amendment guarantees of the right to counsel and the right of confrontation. Only through the aid of simultaneous translation will the party be able to communicate with his attorney to enable the latter to effectively cross-examine those English-speaking witnesses, to test their credibility, their memory, and their accuracy of observation in the light of the defendant's version of the facts.

The case law on the constitutional right of a defendant in a criminal trial to an interpreter is surprisingly sparse, but the U.S. Second Circuit Court of Appeals has recently held, in *United States ex rel Negron* v. *New York,* 434 F. 2d 386 (2d cir. 1970), that it is constitutionally required that a non-English speaking defendant be provided with a simultaneous translation of all the courtroom proceedings. In Negron the State had provided an interpreter for the defendant. However, the interpreter was merely required to periodically summarize what was happening in the courtroom. The second circuit stressed that this was not enough to protect the constitutional rights of the defendant. The court stated that it was:

> Axiomatic that the Sixth Amendment's guarantee of a right to be confronted with adverse witnesses . . . includes the right to cross-examine these witnesses as an essential and fundamental requirement for the kind of a fair trial which is this country's constitutional goal, 434 F. 2d at 389.

The court went on to state that the:

> [Defendant's] incapacity to respond to specific testimony would inevitably hamper the capacity of his counsel to conduct effective cross-examination. Not only for the sake of effective cross-examination, however, but as a matter of simple humaneness, [defendant] deserved more than to sit in total incomprehension as the trial proceeded. 434 F. 2d 390.

In sum, the Bilingual Courts Act is mandated by the sixth amendment guarantees of the right to effective counsel and the right of confrontation. Fundamental fairness, the integrity of the fact-finding process, and the potency of our adversary system of justice also demand its enactment.

The fifth amendment to the Constitution supports the contention that the Bilingual Courts Act should apply to both criminal and civil proceedings. The fifth amendment provides that:

> No person shall . . . be deprived of life, liberty, or property without due process of law.

Surely any legal proceeding that allows a party to an action to be deprived of life, liberty, or property, without bothering to insure that he understand fully what is going on at the trial is so lacking in basic and fundamental fairness to be violative of the due process clause. Civil matters are of the utmost importance because problems may arise in civil cases that can lead to drastic personal consequences. One's ignorance of English can often result in the forfeiture of one's personal and property rights.

The movement to respond to the urgent needs of the non-English-speaking minorities in America has made significant gains in the past few years. In 1967, Congress enacted the Bilingual Education Act which provided for the establishment of bilingual-bicultural education programs. Congress finally realized that America is a multilingual multicultural society, and that this cultural diversity, rather than being some disability is a national asset that should be developed to the fullest extent possible. The recently enacted Education Amendments of 1972 affirmed Congress' commitment to promoting bilingualism. These acts were a recognition of the fact that the severe English language disability common to so many persons in America, makes it impossible for them to receive an adequate education without some type of compensatory program.

On November 14, 1972, the U.S. District Court for New Mexico, held that Chicano children in Portales, N. Mex., had been denied their constitutional rights to an equal education opportunity because the school district had failed to provide an educational environment and curriculum which met the needs of the Chicano students.

Just as we have recognized the necessity for educational reform, so too must we recognize the equally compelling need for court reform. Not only must we insure that the vestiges of discrimination be prohibited in the classrooms of America, but also in the courtrooms of America.

Manuel Ruiz, Jr. U.S. Civil Rights Commissioner, has provided us in his excellent book, "Mexican-American Legal Heritage in the Southwest," with a valuable insight into the extent to which the Spanish language has been used in legal proceedings in the Southwest. One of the chapters begins with an appropriate quote of Justice J. W. Edmunds of the Supreme Court of New York:

> One of the most galling parts of the Norman yoke, to our Saxon ancestors . . . was the regulation that the proceedings of the Courts should be conducted in the language of the Conqueror.

Mr. Ruiz then goes on to say:

To accept Mexican American institutions and incorporate them into our legal structure, but reject the language which breathed life into them, has constituted provincialism foreign to our asserted principles of democratic government and world leadership.

Consumer protection, the administration of justice, equal employment opportunities, social security, education, voter rights, housing, apprenticeship programs, small business administration and fields of transportation are being impelled by need to use the Spanish language. Congressional recognition of this phenomena of necessity is in keeping with the practical requirements of a rapidly expanding economy and society, in which all ethnic segments are involved, and to eliminate the tragic deprivation of opportunity and cultural attrition illustrated so well by the late Ruben Salazar in his publication, "Stranger in One's Land."

So let us act in our country's interest and maintain the momentum generated by our previous accomplishments in the area of bilingual reform. Passage of this legislation will be another significant step forward in our Nation's struggle to secure equal justice for all.

Mr. President, I ask unanimous consent that the bill and a summary of the Bilingual Courts Act also be inserted in the RECORD together with the act.

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

S. 1724

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 "Bilingual Courts Act".

FACILITIES AND PERSONNEL FOR BILINGUAL PROCEEDINGS

SEC. 2. Section 604(a) of title 28, United States Code (relating to the duties of the Director of the Administrative Office of the United States Courts), is amended—

(1) by redesignating paragraph (12) as paragraph (16); and

(2) by inserting immediately below paragraph (11) the following new paragraphs:

"(12) Determine from time to time, from the best and most current data available, each of those judicial districts in which at least five per centum or 50,000 of the residents of that district, whichever is less, do not speak or understand the English language with reasonable facility, and certify each such district as a bilingual judicial district by certificate transmitted to the chief judge of the district court for that district;

"(13) Prescribe, determine, and certify, for each such certified bilingual judicial district, the qualifications of persons to serve as interpreters in bilingual proceedings (as provided in section 1827 of this title) in that district who have a capacity (A) for accurate speech and comprehension of speech in the English language and in the non-English language, and (B) for the simultaneous translation from either such language to the other;

"(14) Prescribe from time to time a schedule of reasonable fees, at rates comparable to reasonable rates of compensation payable to expert witnesses of substantially the same degree of technical skill and experience, for services rendered by such interpreters;

"(15) Provide in each such bilingual judicial district, appropriate equipment and facilities for (A) the recording of proceedings before that court, and (B) the simultaneous language translation of proceedings in such court;

CONDUCT OF BILINGUAL PROCEEDINGS

SEC. 3. (a) Chapter 119 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"1827. Bilingual proceedings

"(a)(1) Whenever a district judge determines, upon motion made by a party to a proceeding in a judicial district, which has been certified under section 604(a) of this title to be a bilingual judicial district, that (A) a party to such proceeding does not speak and understand the English language with reasonable facility, or (B) in the course of such proceeding testimony may be presented by any person who does not so speak and understand the English language, that proceeding shall be conducted with the equipment and facilities authorized by section 604(a)(15) of this title. Any such proceeding or portion of such proceeding (including any translation relating to) shall be recorded verbatim. Such recording shall be made in addition to any stenographic transcript of the proceeding taken.

"(2) After any such determination has been made, each party to the proceeding shall be entitled to utilize the services of the interpreter, certified pursuant to section 604(a) of this title, to provide a simultaneous translation of the entire proceeding to any party who does not so speak and understand the English language and who so speaks and understands such non-English language, or of any portion of the proceeding relating to such qualification and testimony, from such non-English language to English and from English to such non-English language.

"(b) The party utilizing the services of a certified interpreter provided under this section shall pay for the cost of such services in accordance with the schedule of fees prescribed under section 604(a)(14) of this title, except that—

"(1) if the services of an interpreter are utilized by more than one party to the proceeding, such cost shall be apportioned as such parties may agree, or, if those parties are unable to agree, as the court may determine;

"(2) if the United States (including any department, agency, instrumentality, or officer or employee thereof) is a party utilizing the service of an interpreter, the cost or apportioned cost of the United States shall be paid by the Director of the Administrative Office of the United States Courts from funds appropriated to him for that purpose; and

"(3) if the services of an interpreter are utilized by a party determined by the court to be an indigent, the cost or apportioned cost of such party shall be paid by that Director out of funds appropriated to him for that purpose.

(b) The analysis of chapter 119, of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1827. Bilingual proceedings."

APPROPRIATIONS

SEC. 4. There are hereby authorized to be appropriated to the Administrative Office of the United States Courts such sums as may be necessary to carry out the amendments made by this Act.

EFFECTIVE DATE

SEC. 5. The amendments made by this Act shall take effect on the first day of the seventh month beginning after the date of enactment of this Act.

SUMMARY OF BILINGUAL COURTS ACT

1. Establishes the following additional duties of the Director of the Administrative Office of the U.S. Courts:

(a) Determine from time to time, from the best and most current data available, each of those judicial districts in which at least 5 per centum or 50,000 of the residents of that district, whichever is less, do not speak or understand the English language with reasonable facility, and certify each such district as a bilingual judicial district;

(b) Prescribe, determine, and certify for each such district, the qualifications of interpreters who have a capacity 1) for accurate speech and comprehension in English and in the non-English language, and 2) for simultaneous translation from either language to the other;

(c) Prescribe schedule of reasonable fees for interpreters;

(d) Provide in each such district appropriate equipment and facilities for 1) the recording of proceedings before that court, and 2) the simultaneous language translation of proceedings in such court;

2. Establishes the conduct of bilingual proceedings:

(a) Whenever a district judge determines, upon motion made by a party to a proceeding in a judicial district certified as bilingual, that 1) the party does not speak and understand English with reasonable facility or 2) testimony may be presented by any person who does not speak/understand English, that proceeding shall be conducted with the equipment and facilities. Any such proceeding or portion of such proceeding (including any translation) shall be recorded verbatim in addition to any stenographic transcript.

(b) After such determination, each party shall be entitled to the services of the interpreter to provide simultaneous translation of the entire proceeding, or of any portion of the proceeding relating to such qualification and testimony.

(1) The party utilizing the services of the interpreter shall pay for the cost except that a) if the services are utilized by more than one party, such cost shall be apportioned as such parties agree, or if unable to agree, as the court may determine.

(2) If the U.S. is a party utilizing the services of the interpreter, the cost or apportioned cost of the U.S. shall be paid by the Director of the Administrative Office from funds appropriated to him for that purpose, or

(3) If the services of the interpreter are utilized by a party determined by the court to be an indigent, the cost shall be paid by the Director from funds appropriated to him for that purpose.

3. Appropriations necessary to carry out this Act are authorized to the Administrative Office.

4. This Act shall take effect seven months after enactment.

Mr. HASKELL. Mr. President, it gives me great pleasure to cosponsor the Bilingual Courts Act being introduced this day.

The necessity for the passage of the Bilingual Courts Act has been most eloquently stated by my colleague from California in his introductory remarks. Without appearing redundant, I would like to extend to my fellow colleagues some additional remarks in regard to this legislation.

I share equally with the Senator from California deep concern that the courts of our Nation have not the capability to extend to all citizens the full measure of justice they deserve. Hopefully the Bilingual Courts Act will be a beginning toward that end. Yet, it is my concern that the protections which this legislation would insure will be extended to the defendant in criminal prosecution.

The need for such legislation is well known to those who have appeared before the courts of our Nation. Far too often the scales of justice have been un-

equally weighted when persons lacking facility in the English language appear before them.

How shallow that right to justice becomes when a party before the court can only stand mute before it. Such is the situation which confronts those of our citizens with limited facility in English. It is my hope that the Congress will see the merits in this proposed legislation and proceed forthwith to act upon it.

By Mr. DOMINICK (for himself and Mr. TAFT):

S. 1725. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes. Referred to the Committee on Labor and Public Welfare.

FAIR LABOR STANDARDS AMENDMENTS OF 1973

Mr. DOMINICK. Mr. President, on behalf of Mr. TAFT and myself, I introduce for appropriate reference a bill to amend the Fair Labor Standards Act to provide for increases in minimum wage rates, and for other purposes.

While this bill is similar to the one we offered last year as a substitute for the bill reported by the Labor and Public Welfare Committee, it contains several important changes.

First, it provides for somewhat larger increases in minimum wage rates. Under this bill, the minimum wage for nonagricultural employees would be increased from the present level of $1.60 an hour to $2.30 an hour in five steps stretched out over a 4-year period. The minimum wage would be raised to $1.80 an hour on the effective date of these amendments—60 days after enactment—to $2 an hour a year later, to $2.10 an hour 2 years after the effective date, to $2.20 3 years after the effective date, and to $2.30 4 years after the effective date. Assuming these amendments were to go into effect this year, the minimum wage for nonagricultural employees would reach $2.30 an hour sometime in 1977.

Unlike previous increases in minimum wage rates, these increases would apply equally to all nonagricultural employees within coverage of the Fair Labor Standards Act, regardless of when they were first covered. I understand why it is necessary to phase in newly covered businesses at lower rates initially, but I have never been able to understand why it makes sense to perpetuate the gap. I think the increases this bill proposes are moderate enough to avoid undue hardship on those industries first brought within coverage of the Fair Labor Standards Act by the 1966 amendments.

This bill would increase the minimum rate for farmworkers from its present level of $1.30 an hour to $1.90 an hour in three steps. It would be raised to $1.50 on the effective date, to $1.70 a year later, and to $1.90 a year after that.

The minimum rate for employees in Puerto Rico and the Virgin Islands would be increased by 37.5 percent above the most recent rate established by the special industry committees for each industry. The increase would be in three steps of 12.5 percent each, the first taking place on the effective date of these amendments, the second 1 year later, and the third a year after that. The total increase would be roughly comparable to that of employees on the mainland, and the existing industry committee system under which minimum wages are established on an industry-by-industry basis would be preserved.

The minimum rate for employees in the Canal Zone would remain at $1.60 in order to avoid worsening the already great disparity between wages paid workers in the Canal Zone and workers in Panama, where minimum rates range from 40 to 70 cents per hour.

I think the wage increases proposed in this bill are reasonable, and are stretched out over long enough periods of time that they could be absorbed without a great inflationary impact on the economy. They are based on the recognition that excessive increases have adverse inflationary and unemployment effects, and reflect an effort to minimize those effects. I certainly hope that these proposed increases will not influence others in the Senate to support even greater increases. I would strongly oppose any greater increases. At a time when inflation is soaring, we ought to be very careful not to aggravate it—particularly since those hurt most by inflation are those we are trying to help—low-income workers.

The second difference between this bill and the substitute I sponsored last year is that this bill would extend minimum wage coverage to some 4.7 million Federal, State, and local government employees not now covered by the Fair Labor Standards Act. Coverage would not be extended to military personnel, professional, executive, and administrative personnel, employees in noncompetitive positions, or volunteer employees such as those in the Peace Corps and Vista.

At present, about 3.3 million Federal, State, and local employees are covered for minimum wage purposes. The extension of basic minimum wage coverage to additional government employees, since it does not include overtime coverage, would have a relatively slight cost impact.

The wage levels of all Federal employees to whom coverage would be extended are above the current minimum wage. A 1971 report of the Department of Labor indicated that wage levels for State and local government employees not covered by the act are on the average, substantially higher than those of workers already covered.

This bill would provide for no other extensions of coverage, and would not revise existing exemptions. Before any attempt is made to revise the many complex exemptions which have been carved out for various industries, I think Congress needs more facts. Accordingly, the bill would require the Secretary of Labor to do a comprehensive study of the exemptions and submit to Congress within 3 years a report containing recommendations as to whether each exemption should be continued, removed, or modified.

The youth differential provision of this bill is considerably narrower in application than the provision I supported last year. First, the differential rate would be 85 percent of the applicable new minimum rates, rather than 80 percent as previously. Second, for youths under 18, the differential rate could be paid only during the first 6 months of employment. Full-time students would be eligible for the youth differential, but only for part-time work—not more than 20 hours per week—except where they are employed at the educational institution they are attending. Students working full time at off-campus jobs during vacations would not be eligible for the youth differential rate.

This narrowed application of the youth differential should meet the objections of those who felt the provision in the substitute bill last year would have reduced adult employment opportunities. The 6-month limitation would further reduce the already minimal possibility of competition between adult workers and teenagers for low-skilled jobs. This provision would encourage employers to provide inexperienced young workers with job training opportunities necessary in order for them to acquire marketable job skills. Also, few adults seek the kinds of part-time jobs held by students.

The effect of this youth differential provision would be to preserve job opportunities for students and teenagers which would otherwise be eliminated when existing minimum wage rates are increased. It is not a question of displacing adult workers. It is a question of whether marginal jobs are held by teenagers and students working part-time, or whether such jobs are simply eliminated. Every time the minimum wage is increased, many marginal jobs are eliminated because employers find it more economical to mechanize or use some other means to avoid paying employees at the increased rate. There is general agreement among the experts that minimum wage increases result in decreased job opportunities for low-skilled marginal workers—particularly inexperienced teenagers. The Labor Department's 1973 report to Congress on the Fair Labor Standards Act summarizes three recent studies analyzing the impact of minimum wage increases on youth employment. Each of the studies clearly indicates that youth employment is adversely affected by minimum wage increases. Without a youth differential provision, the increases implemented by this bill would worsen the already high teenage unemployment rate—which has been above 15 percent for several years.

The Fair Labor Standards Act contains a provision permitting an 85 percent "youth differential" to full-time students and youth under 18. But, it also requires that employers receive Labor Department certification prior to employment of youth at the special rate. This requirement, which has discouraged employers from fully utilizing the existing youth differential provisions because of the extensive forms and report-filing involved, would be removed by this bill. The bill would, however, require the Secretary of Labor to issue regulations insuring against displacement of adult workers. It also makes clear that employers found to be in violation of the conditions of the youth differential provision would be subject to the existing

civil and criminal penalties under the act.

I think this youth differential provision merits at least a trial run. If it does not, work, we can always modify it, or repeal it and look for something better. The alternative is to simply turn our backs on the very critical problem of high youth unemployment.

The bill contains several other provisions amending the Fair Labor Standards Act—including several tightening up enforcement of the child labor provisions of the act. I ask unanimous consent that the text of the bill and a section-by-section analysis of it be included in the RECORD at the conclusion of my remarks, together with a statement by Senator TAFT in support of the bill.

In conclusion, Mr. President, I have strong views about minimum wage legislation, and feel very strongly that anything we do in this regard should take into account the potential adverse inflationary and unemployment effects. I think I made that clear last year. What I want to emphasize is that this bill was not drafted with the idea that it would merely serve as a starting point for negotiations in the Labor and Public Welfare Committee. On the contrary, it was drafted with the intent that it would be a reasonable compromise between the bill reported by the Labor and Public Welfare Committee last year and the substitute bill I sponsored with Senator TAFT. The substitute, which fell one vote short of Senate approval, was revised specifically with that in mind. This bill contains significant changes—most notably with regard to extending coverage to Federal, State, and local government employees, and narrowing the scope of the youth differential.

Mr. President, I feel this bill is a reasonable compromise which is in the best interests of the public, and which should be capable of getting the support of a majority of the Senate.

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

S. 1725

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 "Fair Labor Standards Amendments of 1973".

DEFINITIONS AND APPLICABILITY TO GOVERNMENT EMPLOYEES

SEC. 2. (a) Section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203 (d)), is amended to read as follows:

"(d) 'Employer' includes any person acting directly or indirectly in the interest of an employer in relation to an employee, including the United States and any State or political subdivision of a State, but shall not include any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization."

(b) Section 3(e) of such Act is amended by adding at the end thereof the following:

"In the case of any individual employed by the United States, 'employee' means any individual employed (i) as a civilian in the military departments as defined in section 102 of title 5, United States Code, (ii) in executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code (including employees who are paid from nonappropriated funds), (iii) in the United States Postal Service and the Postal Rate Commission, (iv) in those units of the government of the District of Columbia having positions in the competitive service, (v) in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and (vi) in the Library of Congress, and in the case of any individual employed by any State or a political subdivision of any State means any employee holding a position comparable to one of the positions enumerated for individuals employed by the United States.".

(c) Section 3(h) of such Act is amended to read as follows:

"(h) 'Industry' means a trade, business, industry, or other activity, or branch or group thereof, in which individuals are gainfully employed.".

(d)(1) The first sentence of section 3(r) of such Act is amended by inserting after the word "whether", the words "public or private or conducted for profit or not for profit, or whether".

(2) The second sentence of such subsection is amended to read as follows: "For purposes of this subsection, the activities performed by any person in connection with the activities of the Government of the United States or any State or political subdivision shall be deemed to be activities performed for a business purpose.".

(e) The first sentence of section 3(s) of such Act is amended by inserting after the words "means an enterprise", the parenthetical clause "(whether public or private or operated for profit or not for profit and including activities of the Government of the United States or of any State or political subdivision of any State)".

(f) Section 13(b) of such Act is amended by striking out the period at the end of paragraph (19) and inserting in lieu thereof a semicolon and the word "or" and by adding at the end thereof the following new paragraph:

"any employee employed by the United States (A) as a civilian in the military departments as defined in section 102 of title 5, United States Code, (B) in executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code (including employees who are paid from nonappropriated funds), (C) in the United States Postal Service and the Postal Rate Commission, (D) in those units of the government of the District of Columbia having positions in the competitive service, (E) in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and (F) in the Library of Congress, and any employee employed by any State or a political subdivision of any State holding a position comparable to one of the positions enumerated in this paragraph for individuals employed by United States."

INCREASE IN MINIMUM WAGE

SEC. 3. (a) Section 6(a)(1) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(1)(A) not less than $1.80 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973,

"(B) not less than $2.00 an hour during the second year from the effective date of such amendments,

"(C) not less than $2.10 an hour during the third year from the effective date of such amendments,

"(D) not less than $2.20 an hour during the fourth year from the effective date of such amendments, and

"(E) not less than $2.30 an hour thereafter."

(b) Paragraph (5) of section 6(a) is amended to read as follows:

"(5) if such employee is employed in agriculture, not less than $1.50 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973, not less than $1.70 an hour during the second year from the effective date of such amendments, and not less than $1.90 an hour thereafter."

(c)(1) Section 6(b) of such Act is repealed.

(2) Subsections (c), (d), and (e) of section 6 of such Act are redesignated as subsections (b), (c), and (d), respectively.

EMPLOYEES IN THE CANAL ZONE

SEC. 4. Section 6(a) of the Fair Labor Standards Act of 1938 is amended by striking out the period at the end of paragraph (5) of such section and inserting in lieu thereof a semicolon and the word "or", and by adding at the end thereof the following new paragraph:

"(6) if such employee is employed in the Canal Zone not less than $1.60 an hour."

EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 5. Paragraphs (A) and (B) of section 6(b)(2) of the Fair Labor Standards Act of 1938 (as redesignated by section 3(a)(2) of this Act) are amended to read as follows:

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 increased by 12.5 per centum unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1973, or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B)(i) Effective one year after the applicable effective date under paragraph (A), the rate or rates prescribed by paragraph (A), increased by an amount equal to 12.5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendation of a review committee appointed under paragraph (C).

"(ii) Effective two years after the applicable effective date under paragraph (A), the rate or rates prescribed by subparagraph (i) of this paragraph increased by an amount equal to 12.5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendation of a review committee appointed under paragraph (C)."

PROOF OF AGE REQUIREMENT

SEC. 6. Section 12 of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new subsection:

"(d) In order to carry out the objectives of this section, the Secretary may by regulations require employers to obtain from any employee proof of age."

CHILD LABOR IN AGRICULTURE

SEC. 7. (a) Section 13(c)(1) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(c)(1) Except as provided in paragraph (2) the provisions of section 12 (relating to child labor) shall not apply to any employee employed in agriculture outside of school

hours for the school district where such employee is living while he—

"(A) is employed by his parent, or by a person standing in the place of his parent, on a farm owned or operated by such parent or person,

"(B) is fourteen years of age or older, or

"(C) is twelve years of age or older, and (i) such employment is with the written consent of his parent or person standing in place of his parent, or (ii) his parent or such person is employed on the same farm.".

(b) Section 13 (d) of such Act is amended to read as follows:

"(d) The provisions of sections 6, 7, and 12 shall not apply with respect to any employee engaged in the delivery of newspapers to the consumer, and the provisions of section 12 shall not apply with respect to any such employee when engaged in the delivery to households or consumers of shopping news (including shopping guides, handbills, or other type of advertising material) published by any weekly, semiweekly, or daily newspaper."

EXPANDING EMPLOYMENT OPPORTUNITIES FOR YOUTH; SPECIAL MINIMUM WAGES FOR EMPLOYEES UNDER EIGHTEEN AND STUDENTS

SEC. 8. Section 14(b) of the Fair Labor Standards Act of 1938 is amended to read as follows.

"(b)(1) Subject to paragraph (2) and to such standards and requirements as may be required by the Secretary under paragraph (4), any employer may, in compliance with applicable child labor laws, employ, at the special minimum wage rate prescribed in paragraph (3), any employee—

"(A) to whom the minimum wage rate required by section 6 would apply in such employment but for this subsection, and

"(B) who is under the age of eighteen or is a full-time student.

"(2) No employer may employ, at the special minimum wage rate authorized by this subsection—

"(A) for a period in excess of one hundred and eighty days any employee who under the age of eighteen and is not a full-time student; or

"(B) for longer than twenty hours per week any employee who is a full-time student, except in any case in which any such student is employed by the educational institution at which he is enrolled.

"(3) The special minimum wage rate authorized by this subsection is a wage rate which is not less than the higher of (A) 85 per centum of the otherwise applicable minimum wage rate prescribed by section 6, or (B) $1.30 an hour in the case of employment in agriculture or $1.60 an hour in the case of other employment, except that such special minimum wage rate for employees in Puerto Rico, the Virgin Islands, and American Samoa shall not be less than 85 per centum of the industry wage order rate otherwise applicable to such employees, but in no case shall such special minimum wage rate be less than that provided for under the most recent wage order issued prior to the effective date of the Fair Labor Standards Act of 1973.

"(4) The Secretary shall by regulation prescribe standards and requirements to insure that this subsection will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by this subsection is applicable.

"(5) For purposes of sections 16(b) and 16(c)—

"(A) any employer who employs any employee under this subsection at a wage rate which is less than the minimum wage rate prescribed by paragraph (3) shall be considered to have violated the provisions of section 6 in his employment of the employee, and the liability of the employer for unpaid wages and overtime compensation shall be determined on the basis of the otherwise applicable minimum wage rate under section 6; and

"(B) any employer who employs any employee under this subsection for a period in excess of the period prescribed by paragraph (2) shall be considered to have violated the provisions of section 6 in his employment of the employee during the period in excess of the authorized period."

CIVIL PENALTY FOR CERTAIN LABOR VIOLATIONS

SEC. 9. Section 16 of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new subsection:

"(e) Any person who violates the provisions of section 12, relating to child labor, or any regulation issued under that section, shall be subject to a civil penalty of not to exceed $1,000 for each such violation.

In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be—

"(1) deducted from any sums owing by the United States to the person charged; or

"(2) recovered in a civil action brought by the Secretary in any court of competent jurisdiction, in which litigation the Secretary shall be represented by the Solicitor of Labor; or

"(3) ordered by the court, in an action brought under section 17 to restrain violations of section 15(a)(4), to be paid to the Secretary.

Any administrative determination by the Secretary of the amount of such penalty shall be final, unless within fifteen days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of title 5, United States Code, and regulations to be promulgated by the Secretary. Sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provisions of section 2 of an Act entitled 'An Act to authorize the Department of Labor to make special statistical studies upon payment of the cost thereof, and for other purposes' (48 Stat. 582)."

PENALTIES

SEC. 10. The first two sentences of section 16(c) of the Fair Labor Standards Act of 1938, as amended, are amended to read as follows:

"The Secretary is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under section 6 or 7 of this Act, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. The Secretary may bring an action in any court of competent jurisdiction to recover the amount of the unpaid minimum wages or overtime compensation and an equal amount as liquidated damages."

NONDISCRIMINATION ON ACCOUNT OF AGE IN GOVERNMENT EMPLOYMENT

SEC. 11. (a) (1) The second sentence of section 11(b) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621) is amended to read as follows: "The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, but such term does not include the United States, or a corporation wholly owned by the Government of the United States.".

(2) Section 11(c) of such Act is amended by striking out "or any agency of a State or political subdivision of a State, except that such terms shall include the United States Employment Service and the systems of State and local employment services receiving Federal assistance.".

(3) Section 16 of such Act is amended by striking the figure "$3,000,000", and inserting in lieu thereof "$5,000,000".

(b)(1) The Age Discrimination in Employment Act of 1967 is amended by redesignating sections 15 and 16, and all references thereto, as section 16 and section 17, respectively.

(2) The Age Discrimination in Employment Act of 1967 is further amended by adding immediately after section 14 the following new section:

"NONDISCRIMINATION ON ACCOUNT OF AGE IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 15. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, of the government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on age.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission is authorized to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement of hiring of employees with or without backpay, as will effectuate the policies of this section. The Civil Service Commission shall issue such rules, regulations, orders, and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

"(1) be responsible for the review and evaluation of the operation of all agency programs designed to carry out the policy of this section, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit; and

"(2) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to nondiscrimination in employment on account of age.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions which shall include a provision that an employee or applicant for employment shall be notified of any final action taken or any complaint of discrimination filed by him thereunder. Reasonable exemptions to the provisions of this section may be established by the Commission but only when the Commission has established a maximum age requirement on the basis of a determination that age is a bona fide occupational qualification necessary to the performance of the duties of the position. With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Any persons aggrieved may bring a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this Act.

"(d) When the individual has not filed a complaint concerning age discrimination with the Commission, no civil action may be commenced by any individual under this section until the individual has given the Commission not less than thirty days' notice of an intent to file such action. Such notice shall be filed within one hundred and eighty days after the alleged unlawful practice occurred. Upon receiving a notice of intent to sue, the Commission shall promptly notify all persons named therein as prospective defendants in the action and take any appropriate action to assure the elimination of any unlawful practice.

"(e) Nothing contained in this section shall relieve any Government agency or official of the responsibility to assure non-discrimination on account of age in employment as required under any provision of Federal law."

EXEMPTION REVIEW

SEC. 12. The Secretary of Labor is hereby instructed to commence immediately a comprehensive review of the exemptions under section 13 of the Fair Labor Standards Act of 1938 and submit to the Congress not later than three years after the date of enactment of this Act a report containing: (1) an analysis of the reasons why each exemption was established; (2) an evaluation of the need for each exemption in light of current economic conditions, including an analysis of the economic impact its removal would have on the affected industry; and (3) recommendations with regard to whether each exemption should be continued, removed, or modified.

TECHNICAL AMENDMENTS

SEC. 13. (a) Section 6(c)(2)(C) of the Fair Labor Standards Act of 1938 is amended by substituting "1973" for "1966".

(b)(1) Section 6(c)(3) of such Act is repealed.

(2) Section 6(c)(4) of such Act is redesignated as 6(c)(3).

(c)(1) Section 7(a)(1) of such Act is redesignated as 7(a).

(2) Section 7(a)(2) of such Act is repealed.

(d) Section 14(c) of such Act is repealed and section 14(d) is redesignated as 14(c).

(e) Section 18(b) is amended by striking out "section 6(b)", and inserting in lieu thereof "section 6(a)(6)", and by striking out "section 7(a)(1)" and inserting in lieu thereof "section 7 (a)".

EFFECTIVE DATE

SEC. 14. Except as otherwise provided in this Act, the amendments made by this Act shall take effect sixty days after enactment. On and after the date of enactment of this Act, the Secretary is authorized to promulgate necessary rules, regulations, or orders with regard to the amendments made by this Act.

SECTION-BY-SECTION ANALYSIS OF S. 1725

SECTION 2

Amends section 3(d) and 3(e) of the Fair Labor Standards Act to include under the definitions of "employer" and "employee" the United States and any state or political subdivision of a state. This would extend minimum wage coverage to an estimated 4.9 million federal, state and local government employees (1.7 million federal, 3.2 million state and local government). Military personnel, professional, executive and administrative personnel, employees in non-competitive positions, and volunteer-type employees, such as Peace Corps and VISTA, would not be included in the extension of coverage. The extension of coverage would be limited to minimum wage; existing overtime coverage under the Act would not be changed.

SECTION 3

Amends section 6(a)(1) of the Fair Labor Standards Act to raise the minimum wage for non-agricultural employees to $2.30 an hour in five steps over a four-year period. The minimum wage would be raised to $1.80 an hour on the effective date of these amendments (60 days after enactment); to $2.00 an hour one year later; to $2.10 two years after the effective date; to $2.20 three years after the effective date; and to $2.30 four years after the effective date. These increases would apply equally to all non-agricultural employees within the coverage of the Act, regardless of when they were first covered.

Amends section 6(a)(5) of the Act to raise the minimum wage for agricultural employees to $1.50 an hour during the first year after the effective date of these amendments, $1.70 an hour during the second year, and $1.90 an hour thereafter.

SECTION 4

Amends section 6(a) of the Fair Labor Standards Act to retain the present minimum wage of $1.60 an hour for employees in the Canal Zone.

SECTION 5

Amends section 6(c) of the Fair Labor Standards Act to raise the minimum wage in Puerto Rico and the Virgin Islands by three 12½ percent increases over the most recent wage order rate, the first increase to be effective either 60 days after enactment of the bill or one year after the effective date of the most recent wage order, whichever is later. The second increase would be effective one year after the first; the third increase would be effective one year after the second.

SECTION 6

Amends section 12 of the Fair Labor Standards Act to authorize the Secretary of Labor to require employers to obtain proof of age from any employee. This would facilitate enforcement of the child labor provisions of the Act.

SECTION 7

Amends section 13(c)(1) of the Fair Labor Standards Act, which relates to child labor in agriculture, to prohibit employment of children under 12 except on farms owned or operated by parents; and to prohibit employment of children aged 12 and 13 except with written consent of their parents, or on farms where their parents are employed.

Amends section 13(d) of the Act to extend the existing child labor exemption for newsboys delivering daily newspapers to newsboys delivering advertising materials published by weekly and semi-weekly newspapers.

SECTION 8

Amends section 14(b) of the Fair Labor Standards Act to establish a special minimum wage rate for youth under 18 and full-time students of 85 percent of the applicable minimum wage or $1.60 an hour ($1.30 an hour for agricultural employment), whichever is higher. The special minimum wage for the same employees in Puerto Rico, the Virgin Islands, and American Samoa would be 85 percent of the industry wage order rate applicable to them, but not less than the rate in effect immediately prior to the effective date of the Fair Labor Standards Amendments of 1973.

Non-students under 18 would qualify for the "youth differential" rate only during their first 6 months of employment on a job. Full-time students would qualify for the differential rate (a) while employed at the educational institution they are attending; or (b) while employed part-time (not in excess of 20 hours per week) at any job.

The existing requirement in the Act that employers receive Labor Department certification prior to employment of youth at the special minimum rate would be removed. The Secretary of Labor would be required to issue regulations insuring against displacement of adult workers. Employers violating the terms of the youth differential provision would be subject to existing civil and criminal penalty provisions of the Act.

SECTION 9

Amends section 16 of the Fair Labor Standards Act to provide for a civil penalty of up to $1,000 for each violation of the child labor provisions of section 12 of the Act.

SECTION 10

Amends section 16(c) to allow the Secretary of Labor to bring suit to recover unpaid minimum wages or overtime compensation and an equal amount of liquidated damages without requiring a written request from an employee. In addition, this amendment would allow the Secretary to bring such actions even though the suit might involve issues of law that have not been finally settled by the courts.

SECTION 11

Amends the Age Discrimination in Employment Act of 1967 (P.L. 90–202) to extend its coverage to federal, state and local government employees.

SECTION 12

Requires the Secretary of Labor to undertake a comprehensive review of the minimum wage and overtime exemptions under section 13 of the Fair Labor Standards Act and to submit to Congress within three years a report containing recommendations as to whether each exemption should be continued, removed or modified.

SECTION 13

Technical amendments.

SECTION 14

Provides that the amendments made by this Act would become effective sixty days after enactment, and authorizes Secretary of Labor to promulgate regulations necessary to carry out such amendments.

STATEMENT BY SENATOR TAFT

Minimum wage legislation has been the subject of considerable discussion during the last two years, with extensive debate in this body and the other body. Senator Dominick and I today have introduced a bill that we feel is a very constructive approach to increasing the minimum wage. I understand Senators Williams and Javits also plan to introduce a minimum wage proposal in the near future. I am sure their proposal will be a great help in considering this important topic.

It is important to remember, however, that the Congress must be very careful in acting to amend the Fair Labor Standards Act. If we enact increases to the minimum wage too quickly, many employees may lose their jobs. Many of our nation's small businesses would also be severely affected if the minimum is increased too quickly. We must remember that the Fair Labor Standards Act is basically small business legislation, and any attempt to make it other than that can be fatal to many of our nation's small employers and their employees.

Another extremely important concept with regard to the minimum wage question is the concept of a youth differential. Any way you examine the unemployment situation for our nation's youth, you are readily apprised of extremely pressing problems. It is truly discouraging to see that many of our nation's youth, especially minority youth, do not have a job, nor do they have the prospect of obtaining one. Senator Dominick and I have suggested a sub-minimum wage proposal to be applicable for youth 18 years of age and under. We feel this proposal has merit and will help alleviate part of this youth unemployment problem. I realize the strong feeling of organized labor against this concept, but I also know that they are quite aware

and quite concerned about the problem of youth unemployment. I hope that they will again carefully consider this question and provide constructive alternatives in this area if they continue to oppose any type of youth sub-minimum.

Senator Dominick has already gone over the provisions of our proposal and included a summary thereof. I will not duplicate this effort. I would ask, however, that each Senator carefully examine the issues raised with respect to increasing the minimum wage and then consider our proposal.

All Americans desire to see the elimination of sub-standard and exploitive wage practices. Let us in the Congress work together in this session toward this goal.

By Mr. GRAVEL:

S. 1726. A bill to provide guidelines and limitations for the classification of information and material, to insure the integrity of the Congress as a separate branch of the Government by preventing the unwarranted interference in congressional functions by the executive and judicial branches, to establish an Office of the General Counsel to the Congress, to require the disclosure of information to Congress by the executive branch, to protect the confidentiality of information and sources of information of the news media, and for other purposes. Referred to the Committee on Government Operations.

THE PEOPLE'S NEED TO KNOW

Mr. GRAVEL. Mr. President, the prerequisite of a free, self-governing people is an enlightened citizenry. If the American people are to be meaningful participants in the operation of their Government, they must have easy access to virtually all information. The Government's shrill claims of a "need" for secrecy must give way to the higher priority of the citizen's need to know, his right to know.

I have identified five areas in which it seems to me crucial, that we act in order to preserve the free flow of information:

First. We must control excessive secrecy by establishing guidelines and limitations for classification and declassification. This does not mean mandating secrecy itself, as the administration has proposed.

Second. We must assure the congressional role in gathering and disclosing information by protecting Members of Congress from intimidation by the Executive.

Third. We must put a stop to the abuse of Executive privilege. While the adviser relationship should be kept sacrosanct, it should never be used to keep information from the Congress.

Fourth. We should establish our own general counsel to preserve congressional immunity, defend our membership from Executive harassment, and act aggressively to halt Executive usurpation of power.

Fifth. We must grant newsmen immunity from disclosure of information and sources. A free press will assist Congress in informing the people, and it will keep the Congress itself honest.

I have attempted to deal with the problems in each of these areas in separate titles of a comprehensive bill, the "Public Information Act of 1973," which I am introducing today. I ask unanimous consent that this bill, together with an accompanying section-by-section analysis, be printed at this point in the RECORD.

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

S. 1726

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 "Public Information Act of 1973".

TITLE I—AMENDMENTS TO FREEDOM OF INFORMATION ACT

SHORT TITLE

SECTION 101. This title may be cited as the "Freedom of Information Act Amendments of 1973".

ATTORNEYS' FEES

SEC. 102. Section 552(a)(3) of title 5, United States Code, is amended by adding at the end thereof the following new sentence: "The court shall award reasonable attorneys' fees and court costs to the complainant if it issues any such injunction or order against the agency."

CONFORMING AMENDMENTS

SEC. 103. Section 552(b) of title 5, United States Code, is amended—

(1) by striking out "(b) This section" and insertion in lieu thereof "(b)(1) subsection (a)";

(2) by redesignating paragraphs (1) through (9) as subparagraphs (A) through (I), respectively;

(3) by striking out subparagraph (A), as redesignated by clause (2), and inserting in lieu thereof the following: "(A) designated Secret Defense Data in accordance with subsection (d);"; and

(4) by inserting at the end thereof the following new paragraph:

"(2) Subsection (a) applies to any matter which is declassified under subsection (e)."

CLASSIFICATION OF INFORMATION

SEC. 104. Section 552 of title 5, United States Code, is amended by adding at the end thereof the following new subsections:

"(d)(1) The Congress finds and declares that the free flow of information among individuals, between the Government and the citizens of the United States, and among the separate branches of the Government is essential to the proper functioning of the Constitutional processes of the United States. The Congress further finds that certain unwarranted policies and procedures for the classification of information and to material have in the past unduly inhibited this free flow of information, and that in order to correct this situation it is necessary to prescribe certain guidelines and limitations for the classification of information and material which the President or the head of an agency determines to require limited dissemination in the interest of national defense. By prescribing such guidelines and limitations, it is not the intention of the Congress either to encourage the classification of information and material or to establish as a criminal offense, in itself, the unauthorized disclosure of any such classified information or material.

"(2) The President and the heads of those agencies listed under subparagraph (A) of paragraph (4) are authorized to classify as 'Secret Defense Data' any official information or material originated or acquired by them, the unauthorized disclosure of which may reasonably be expected to cause damage to the national defense. Official information or material may be classified as Secret Defense Data only if its unauthorized disclosure would adversely affect the ability of the United States to protect and defend itself against overt or covert hostile action. In no case shall information or material be classified in order to conceal incompetence, inefficiency, wrongdoing, or administrative error, to avoid embarrassment to any individual or agency, to restrain competition or independent initiative, or to prevent or delay for any reason the release of information or material the dissemination of which will not damage the national defense.

"(3) Except as otherwise provided by law, no designation other than 'Secret Defense Data' shall be used to classify information or material in the interest of national defense. The President or the head of the agency originating or receiving Secret Defense Data may use such routing indicators as may be appropriate to assist in limiting the dissemination of individual items of such Secret Defense Data to designated recipients.

"(4) (A) Official information or material may be originally classified as Secret Defense Data by the heads of—

"(i) such offices within the Executive Office of the President as the President may designate by Executive Order;

"(ii) the Department of State;

"(iii) the Department of Defense and the military departments, as defined in section 102 of this title;

"(iv) the Department of the Treasury;

"(v) the Department of Justice;

"(vi) the Department of Commerce;

"(vii) the Department of Transportation;

"(viii) the Atomic Energy Commission;

"(ix) the Central Intelligence Agency; and

"(x) the National Aeronautics and Space Administration.

"(B)(i) The President and the head of each agency listed under subparagraph (A) may authorize in writing senior principal deputies, assistants, and subordinate officials within each such agency to classify official information or material as Secret Defense Data. In no case may any individual occupying a position lower than the level of section chief or its equivalent be authorized to classify official information or material as Secret Defense Data, and no individual may be granted such authority unless his daily operational responsibilities require that he have such authority.

"(ii) Officers and employees of agencies other than agencies listed under subparagraph (A) may not classify official information or material, and the authority to classify may not be delegated or transferred to any other agency except by Act of Congress. An officer or employee of an agency who is not authorized to classify official information or material under this subsection, but who originates or supervises the origination of official information or material which he believes to qualify for classification as Secret Defense Data, may recommend classification of any such information or material by the head of the agency having both a direct official interest in the information or material and the authority to classify it.

"(iii) Each individual authorized by the head of an agency listed under subparagraph (A) to classify official information or material shall be furnished within written instructions advising him of the subject matter which he may classify and of any other requirements applicable to him in the exercise of his classification authority. The head of each such agency shall semiannually review his designation of authority to classify official information or material and shall revoke such designation in the case of any individual whose operational responsibilities no longer require that he have such authority.

"(iv) No individual authorized to classify information or material may redelegate such authority to any other individual.

"(v) Any individual who, acting in a clerical capacity, handles any classified information or material need not have authority to

classify such information or material in order to copy or otherwise reproduce or to put classification markings on such information or material.

"(5) The head of each agency listed under paragraph (4)(A) shall compile and maintain a complete list of the names and official addresses of all individuals within such agency who are authorized to classify official addresses of all individuals within such list shall be submitted quarterly by each such agency head to the Comptroller General of the United States. A copy of each such list shall be made available, upon written request to the appropriate agency head by any Member or committee of Congress, to such Member of committee.

"(6) Official information and material shall be classified according to what it contains or reveals and not according to its relationship with or reference to other information or material. No document or other material may be classified unless it contains or reveals an element of official information specifically designated as Secret Defense Data pursuant to this subsection.

"(7) Any document or other material object, including communications transmitted by electrical means, containing or revealing information designated as Secret Defense Data shall be appropriately and conspicuously marked or otherwise identified to show—

"(A) the designation 'Secret Defense Data';

"(B) any routing designator which may have been assigned;

"(C) the office of origin;

"(D) the date of origin;

"(E) the name and title of the individual who classified the document or object; and

"(F) the date of original classification.

The marking or other identification shall be limited to thoses paragraphs or other separate segments of the document or other object which require protection, and the classification authority shall (i) mark or identify only those paragraphs or segments which require protection, or (ii) include with the document or other object a statement specifically describing those paragraphs or segments which require protection.

"(8) Information or material furnished to the United States by a foreign government or international organization, the unauthorized disclosure of which could reasonably be expected to cause damage to the national defense or to the defense of a foreign government with which the United States is allied, may be designated as 'secret defense data', except that any such information or material shall be provided to any Member or committee of Congress upon written request to the appropriate agency, notwithstanding any contrary agreement or stipulation

"(9) Official information or material originated or acquired by an agency and classified as 'confidential', 'secret', or 'top secret' pursuant to any Executive order shall be subject to the provisions of this subsection. Subject to review procedures established by the President or the head of an agency, any officer or employee having custody of a document or other material classified as 'confidential,' 'secret', or 'top secret', which is in use or withdrawn from file or storage for use, shall mark it in accordance with the provisions of this subsection to show that it has been designated as Secret Defense Data, or to show that it has been declassified and cite this subsection or subsection (e) as the authority for such marking, unless declassification was accomplished before the effective date of this subsection.

"(e)(1)(A) Any official information or other material which—

"(i) is classified pursuant to the provisions of subsection (d) after the effective date of such subsection; and

"(ii) at any time thereafter ceases to meet the requirements of subsection (d) (2), or can no longer be protected against unauthorized disclosure,

shall be declassified promptly by the President or an individual within the appropriate agency who has the authority to classify such information or material.

"(B) Except as provided in paragraph (2), any official information or material which is classified pursuant to subsection (d) on or after the effective date of such subsection and which is not declassified as provided in subparagraph (A), shall be declassified automatically upon the expiration of two years after the end of the month of its classification, by the President or an individual within the appropriate agency who has authority to classify such information or material, regardless of whether or not the document or other material has been marked to show the declassification.

"(C) Except as provided by paragraph (2), any official information or material which was originally classified as 'confidential, 'secret', or 'top secret' pursuant to any Executive order during the two-year period immediately preceding the effective date of subsection (d), and which is classified as 'confidential', 'secret', or 'top secret' on such effective date, shall be declassified automatically upon the expiration of two years after the end of the month of the original classification of such information or material, by the President or an individual within the appropriate agency who has the authority to classify such information or material, regardless of whether or not the document or other material has been marked to show the declassification. If the original date of classification of such information or material is not known, it shall be declassified automatically not later than the expiration of two years after the effective date of subsection (d).

"(D) Except as provided by paragraph (2), any official information or material which was originally classified pursuant to any Executive order, directive, memorandum, or other authority prior to the two-year period immediately preceding the effective date of subsection (d), and which continues to be classified on such effective date, shall be declassified automatically upon the expiration of six months after such effective date, by the President or an individual within the appropriate agency who has authority to classify such information or material, regardless of whether the document or other material has been marked to show the declassification.

"(2)(A) Any official information or material which is classified and which is subject to automatic declassification as provided in subparagraph (B), (C), or (D) of paragraph (1) may be assigned a deferred automatic declassification date by the President or the head of the agency which originally classified such information or material or by the head of the agency which has responsibility for such information or material in the case of a transfer of functions from one agency to another, upon a determination by the President or the agency head that the information or material is of such sensitivity and importance to continue to satisfy the requirements for classification as Secret Defense Data. For each item of information or material for which the President or the head of an agency makes such a determination, he shall submit, in writing, to the Committee on Government Operations of the Senate, the Committee on Government Operations of the House of Representatives, and the Comptroller General of the United States a detailed justification for the continued classification of such information or material. Both such committees shall compile and print at least annually as a public document all such reports received by them, except that upon recommendation of the President or the head of the agency concerned, such committee may delete from printing any material which itself satisfies the requirements for classification as Secret Defense Data. Each such deletion shall be indicated in the printed document, and the complete document without deletions shall be kept in committee files and made available, upon request, to any Member or committee of Congress. In no case may the President or the head of an agency assign a deferred automatic declassification date of more than two years after the date of declassification provided for under subparagraph (B), (C), or (D) of paragraph (1), except that such official may assign an additional deferred automatic declassification date upon determination that the classified information or material continues to satisfy the criterion for classification as Secret Defense Data. For each such deferral such official shall submit a written justification as provided herein. The authority to defer declassification shall not be redelegated by the head of any agency. Any information or material assigned a deferred automatic declassification date may at any time be declassified in accordance with paragraph (1)(A).

"(B)(i) Any person may bring a civil action on his own behalf against the President or the agency head who is alleged to have deferred the automatic declassification date of official information or material which does not satisfy the requirements (as described in subsection (d)(2)) for classification as Secret Defense Data. The district court of the United States in the district in which the complainant resides, or has his principal place of business, or the district court for the District of Columbia, has jurisdiction to enjoin the President or the agency head from deferring the automatic declassification date of information or material and to order such declassification upon finding that such information or material does not satisfy the criterion for classification as Secret Defense Data. In such a case the court shall determine the matter de novo and the burden is on the President or the agency head to sustain his action. In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible official. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

"(ii) The court, if it issues any injunction or order against the President or the agency head in any action brought pursuant to subparagraph (B)(i), shall award reasonable attorneys' fees and court costs to the complainant.

"(3) The declassification of Secret Defense Data shall be accomplished by issuance of an official announcement describing or otherwise identifying the information or material to be declassified, or by the classification authority authenticating the declassification according to the procedures described in paragraph (4) on the record copy of a document or other material and notifying all holders of copies of such document or material that the information or material has been declassified.

"(4) Any information or material which is declassified, including information or material automatically declassified, shall be marked as soon as practicable in order clearly to show that it has been declassified. Such information or material also shall be annotated to show the date of the declassification and the name and title of the person who authorized the declassification. Information or material which is in storage when declassified need not be marked or annotated until it is withdrawn for use, and information or material which is declassified and which is designated for destruction need not be marked or annotated but may be destroyed according to procedures applicable to other non-classified material.

"(5) The head of an agency which has responsibility for functions transferred from another agency shall exercise declassification authority for such Secret Defense Data as falls within the purview of the transferred functions, even if such agency does not have original classification authority. The Administrator of Services shall exercise declassification authority for such Secret Defense Data as has been transferred to the General Services Administration in order to be placed in the Archives of the United States. In order to carry out the provisions of this paragraph, heads of agencies may designate such senior principal deputies, assistants, and subordinate officials as they may require to accomplish declassification.

"(6) An officer or employee who has custody of Secret Defense Data which he believes no longer requires classification, and concerning which he does not have declassification authority, may recommend immediate declassification by the person or office having both a direct official interest in such Secret Defense Data and the authority to declassify it.

"(f)(1) The head of each agency which exercises authority to classify or declassify official information or material shall, in conjunction with the Comptroller General of the United States, prescribe such regulations as he considers necessary or appropriate to carry out the provisions of subsections (d) and (e) of this section, including regulations which prescribe administrative reprimand, suspension, or other disciplinary action for the improper classification of official information or material.

"(2) The Comptroller General of the United States shall monitor the actions taken by agencies to implement and adhere to the policies and provisions of subsections (d) and (e) of this section. To this end the Comptroller General shall perform, among others, the following functions:

"(A) Prescribe, in conjunction with heads of agencies, such regulations as may be necessary to achieve uniformity among agencies in the implementation of subsections (d) and (e) of this section.

"(B) Obtain and review agency implementing regulations and those of such subordinate components as may be necessary to determine the effectiveness of agency actions.

"(C) Inquire on a periodic basis regarding the need for assignment or retention of the Secret Defense Data designation on selected documents and other material.

"(D) Conduct visits on a periodic basis to observe the practical application of classification and declassification policy and the safeguarding of Secret Defense Data by officers and employees of agencies.

"(E) Investigate, when deemed appropriate, inquiries initiated by private citizens, officers or employees of the United States, or any other person concerning any allegation of improper classification of information or material, or concerning any allegation of the failure of any agency, or any officer or employee thereof, to comply with the policies and provisions of subsection (d) or (e) of this section, or any regulation prescribed under this subsection.

"(F) Transmit semi-annual reports not later than March 1 and September 1 of each year to both the Senate Committee on Government Operations and the House Committee on Government Operations, setting forth the findings of such reviews, inquiries, visits, and investigations as may have been conducted pursuant to subparagraphs (B) through (E) during the reporting period, as well as any other matters pertaining to the implementation of subsections (d) and (e) which may be of interest to the committees. Such reports also shall contain any recommendations for action by the committees relating to this Act which the Comptroller General may deem appropriate.

"(g) No person may withhold or authorize withholding information or material from the Congress, or any committee or Member thereof, or from any court of the United States on the basis that such information or material is classified or qualifies for classification as Secret Defense Data or is otherwise classified pursuant to any law. Executive order, directive, memorandum, or other authority."

ATOMIC ENERGY RESTRICTED DATA

SEC. 105. The provisions of this title shall not affect any requirement made by or under the Atomic Energy Act of 1954, as amended, regarding the designating and protection of Restricted Data, as defined in that Act.

EFFECTIVE DATE

SEC. 106. (a) Except as provided in subsection (b), the provisions of this title shall take effect on the first day of the fourth month that commences after the date of its enactment.

(b) Section 552(f), as added by section 104 of this title, shall take effect upon the date of enactment of this Act.

TITLE II—CONGRESSIONAL PROTECTION

SEC. 201. Part II of title 18, United States Code, is amended by adding at the end thereof the following new chapter:

"Chapter 239—CONGRESSIONAL PROTECTION

"Sec.

"3791. Congressional protection.

"§ 3791. Congression protection.

"(a) Notwithstanding any other provision of law, the courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, the District Court of the Virgin Islands, the United States Commissioners, and the United States magistrates shall have no jurisdiction to conduct any criminal proceeding with respect to offenses against the laws of the United States if such proceeding relates to a legislative activity of a Member of Congress.

"(b)(1) If an attorney for the United States intends to issue a subpoena to any person, and such attorney has reason to believe that the subpoena, or any part thereof, relates to a legislative activity of a Member of Congress, then such attorney shall immediately notify the Attorney General of the United States. The Attorney General shall approve personally the issuance of the subpoena, and shall notify in writing such Member and the President pro tempore of the Senate, in the case of a Senator, or the Speaker of the House of Representatives, in the case of a Representative, a Resident Commissioner, or a Delegate of the House of Representatives, not less than 48 hours in advance of the issuance of the subpoena.

"(2) If at any time in the course of any criminal proceeding it appears that testimony which relates to the legislative activity of a Member of Congress is being heard or may be heard, and the provisions of paragraph (1) have not been complied with, then the court shall stay the proceedings and give such Member an opportunity to move, as provided in subsection (c), to quash the subpoena or subpoenas pursuant to which testimony is being taken.

"(c) If any subpena is issued to any person with respect to any activity of a Member of Congress, that Member may file a motion, before the court under whose seal the subpena was issued, asking that the subpena, or any part thereof, be quashed on the grounds that such subpena or part thereof relates to a legislative activity of such Member and is therefore beyond the jurisdiction of such court, commissioner, or magistrate, as the case may be. Upon the filing of such motion, the subpena, or part thereof, sought to be quashed shall be stayed. In any hearing on a motion to quash the subpena, the United States (1) is required to state with particularity the information it intends to receive as the result of the issuance of the subpena, and (2) shall have the burden of proving, beyond a reasonable doubt, that such subpena, or part thereof, does not relate to any legislative activity of such Member. If the United States fails to satisfy the provisions of both clauses (1) and (2) of this subsection, the subpena or part thereof shall be quashed. If the court finds that both such clauses have been satisfied, the court may order the enforcement of the subpena or part thereof. However, the order shall specifiy with particularity, and as narrowly as practicable, the information about which the United States may inquire or obtain under such subpena in order to assure that such information will not relate to any legislative activity of such Member.

"(d) For purposes of this section—

"(1) 'court of the United States' has the same meaning given that term under section 451 of title 28;

"(2) 'legislative activity' means any activity of a Member of Congress, while a Member of the Congress, relating to the due functioning of the legislative process and carrying out the obligations a Member of Congress owes to the Congress and to his constituents, and includes, but is not limited to, speeches, debates, and votes, in either House of Congress, committee or subcommittee conduct, gathering or receipt of information for use in legislative proceedings, speeches or publications outside of Congress informing the public on matters of national or local importance, and the motives and processes by which a decision was made with respect thereto; and

"(3) 'Member of Congress' means either a present or former Senator, or a present or former Representative, Resident Commissioner, or Delegate of the House of Representatives."

SEC. 202. The table of chapters of part II of such title 18, preceding section 3001, is amended by adding at the end thereof the following:

"239 Congressional protection."

TITLE III—OFFICE OF THE GENERAL COUNSEL TO THE CONGRESS

ESTABLISHMENT

SEC. 301. There is established in the Congress an office to be known as the office of the General Counsel to the Congress, referred to hereinafter as the "Office".

PURPOSE AND POLICY

SEC. 302. The purpose of the Office shall be to provide legal advice, legal representation, legal counseling, and other appropriate legal services to the Congress, its two Houses, and their respective committees, Members, officials and employees in those matters relating to their institutional or official capacities and duties. The Office shall maintain impartiality as to matters brought before it, and it shall provide services indiscriminantly to any committee or Member of Congress unless directed otherwise by either House or Congress as a whole. The Office shall maintain the attorney-client relationship with respect to all communications between it and any committee or Member of Congress.

FUNCTIONS

SEC. 303. The functions of the Office shall be as follows:

(a) Upon the request of the Congress, either of its two Houses, any joint committee of the Congress, or any committee of either House of the Congress, to commence civil action against the President or any other officer of the Government to compel compliance with any law.

(b) Upon the request of the Congress, either of its two Houses, any Member of the Congress, any joint committee of the Congress, any committee of either House of the Congress, or any subcommittee of any such committee, to commence civil action

against the President or any other officer of the Government to compel compliance with any request for information.

(c) Upon the request of the Congress, either of its two Houses, any Member of the Congress, any joint committee of the Congress, any committee of either House of the Congress, or any subcommittee of any such committee, to represent the Congress, either of its two Houses, or any of their respective committees, Members, former Members, officers or employees before any grand jury proceeding or in any civil or criminal action arising from their performing or not performing any action relating to their institutional or official capacities and duties.

(d) Upon the request of the Congress, either of its two Houses, any Member of the Congress, any joint committee of the Congress, any committee of either House of the Congress, or any subcommittee of any such committee, to intervene as a party before any grand jury proceeding or in any civil or criminal proceeding.

(e) Upon the request of the Congress, either of its two Houses, any joint committee of the Congress, or any committee of either House of the Congress, to appear before the Supreme Court or any other court of the United States as amicus curiae in cases involving the intent and meaning or constitutionality of legislation or of any action of either House of Congress.

(f) To review rules and regulations from time to time issued by the various agencies of the Government and to report to the Congress as to whether such rules and regulations are authorized by the legislation under which they purport to be issued.

(g) To bring to the attention of the Congress such legal proceedings, actions of the Government, and other matters which relate to the institutional or official capacities or duties of the Congress or its Members.

(h) To furnish advice and other appropriate services to any Member of the Congress, any joint committee of the Congress, any committee of either House of the Congress, any subcommittee of any such committee in connection with the foregoing.

CONGRESSIONAL COUNSEL

SEC. 304. The management, supervision, and administration of the Office are invested in the General Counsel to the Congress who shall be appointed by the President pro tempore of the Senate, the Speaker of the House of Representatives and the majority leaders and minority leaders of the Senate and House of Representatives (referred to hereinafter as the "Leaders") acting unanimously, without regard to political affiliation and solely on the basis of fitness to perform the duties of the position. In the event of the failure of the Leaders to act, the appointment shall be made by majority vote of both the Senate and the House of Representatives. Any person so appointed shall serve for only one term of ten years, but may be removed from office by the Leaders, acting unanimously.

STAFF

SEC. 305. With the approval of the Leaders, or in accordance with policies and procedures approved by them, the General Counsel shall appoint such attorneys and other employees as may be necessary for the prompt and efficient performance of the functions of the Office. Any such appointment shall be made without regard to political affiliation and solely on the basis of fitness to perform the duties of the position. Any person so appointed may be removed by the General Counsel to the Congress with the approval of the Leaders, or in accordance with policies and procedures approved by the Leaders.

COMPENSATION

SEC. (a) The General Counsel to the Congress shall be paid at a per annum gross rate equal to the rate of basic pay, as in effect from time to time, for level III of the Executive Schedule of section 5314 of title 5, United States Code.

(b) Members of the staff of the Office other than the General Counsel to the Congress shall be paid at per annum gross rates fixed by the General Counsel with the approval of the Leaders, or in accordance with policies approved by the Leaders, but not in excess of a per annum gross rate equal to the rate of basic pay, as in effect from time to time, for level V of the Executive Schedule of section 5316 of title 5, United States Code.

EXPENDITURES

SEC. 307. In accordance with policies and procedures approved by the Leaders, the General Counsel to the Congress may make such expenditures as may be necessary or appropriate for the functioning of the Office.

OFFICIAL MAIL

SEC. 308. The Office shall have the same privilege of free transmission of official mail matter as other offices of the United States Government.

AUTHORIZATION OF APPROPRIATIONS

SEC. 309. There are authorized to be appropriated, for the fiscal year ending June 30, 1973, and for each fiscal year thereafter, such sums as may be necessary to carry out this title and to increase the efficiency of the Office and the quality of the services which it provides.

TITLE IV—PRIVILEGED INFORMATION

SEC. 401. Chapter 6 of title 2, United States Code, is amended by adding the following new section:

"§ 192a. Privileged Information

"(a) The Congress declares that information or material of, or under the custody or control of, any agency, officer, or employee of the Government is to be made available to the Congress so that the Congress may exercise, in an informed manner, the authority conferred upon it by article I of the Constitution to make laws necessary and proper to carry into execution the powers vested in the Congress and all other powers vested in that Government or any department or officer thereof.

"(b) For the purpose of this section—

"(1) 'agency' means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

"(A) the Congress;

"(B) the courts of the United States; or

"(C) the governments of the territories or possessions of the United States;

"(2) 'employee' means—

"(A) an employee in or under an agency;

"(B) a member of the uniformed services; and

"(C) an employee engaged in the performance of a Federal function under authority of an Executive act; and

"(3) 'Government' means the Government of the United States and the government of the District of Columbia.

"(c) Any officer or employee of the Government summoned or requested to testify or produce information or material before Congress, any joint committee of the Congress, any committee of either House of the Congress, or any subcommittee of any such committee (hereinafter the 'requesting body'), shall not refuse to appear on the grounds that the requested testimony, information, or material is privileged. Any such officer or employee appearing as a witness may be required to answer questions with regard to, or required to produce, any—

"(1) information or material within such person's immediate knowledge or jurisdiction; and

"(2) policy decisions that such person personally has made or implemented.

If such witness asserts that the requested information or material is privileged and refuses to supply the same, such person immediately shall provide a justification for the assertion of privilege, whereupon it shall then be a question of fact for the requesting body to determine whether or not the plea or privilege is well taken. If not well taken, the witness shall be ordered to supply the requested information or material. Upon such order, if the witness continues to refuse to supply the requested information or material, such person shall be held in contempt of Congress.

"(d) Any information or material of, or under the custody or control of, any agency, officer, or employee of the Government shall be made available to any Member of the Congress, any joint committee of the Congress, any committee of either House of the Congress, any subcommittee of any such committee, or the general accounting office, upon written request of any such Member, committee, subcommittee, or office to the head of the agency or other officer or employee of the Government who has custody or control of such information or material. Any information or material so requested shall be furnished within fifteen days of receipt of the request unless within such time the head of the agency or other governmental authority which receives the request asserts that the information or material is privileged and provides in writing to such Member, committee, subcommittee, or office a justification for the assertion of privilege. In the case of information or material requested by a committee or subcommittee, upon receipt of a plea of privilege it shall then be a question of fact for the committee or subcommittee to determine whether or not such plea is well taken. If not well taken, the head of the agency or other governmental authority which receives the request shall be ordered to supply the requested information or material, and if such information or material is still refused, such person shall be held in contempt of Congress.

"(e) Nothing in this section shall be construed to require any officer or employee of the Government to make available to the Congress, any Member of the Congress, any joint committee of the Congress, any committee of either House of the Congress, any subcommittee of any such committee, or the General Accounting Office the nature of any advice, recommendation, or suggestion (as distinct from any form of information or material included within or forming the basis of such advice, recommendation, or suggestion) made to or by such person in connection with matters solely within the scope of such person's official duties, except to the extent that such information may be required by some other provision of law to be made available to Congress or made public.

"(f) Nothing in this section is intended to recognize or sanction a doctrine of 'executive privilege' or to permit the refusal of information or material on the grounds that such information or material constitutes 'internal working papers'."

SEC. 402. The analysis of such chapter is amended by adding the following new item: "192a. Privileged information."

TITLE V—COMMUNICATIONS MEDIA PRIVILEGE SHORT TITLE

SEC. 501. This Title may be cited as the "Communications Media Privilege Act of 1973".

DEFINITIONS

SEC. 502. For the purpose of this Title, the term—

(1) "Federal or State proceeding" includes any proceeding or investigation before or by any Federal or State judicial legislative, executive, or administrative body;

(2) "medium of communication" includes, but is not limited to, any newspaper, magazine, other periodical, book, pamphlet, news service, wire service, news or feature syndicate, broadcast station or network, or cable television system;

(3) "information" includes any written, oral or pictorial news, or other material;

(4) "published information" means any information disseminated to the public by the person from whom disclosure is sought.

(5) "unpublished information" includes information not disseminated to the public by the person from whom disclosure is sought, whether or not related information has been disseminated and includes, but is not limited to, all notes, outtakes, photographs, tapes, or other data of whatever sort not itself disseminated to the public through a medium of communication, whether or not published information based upon or related to such material has been disseminated;

(6) "processing" includes compiling, storing, and editing of information; and

(7) "person" means any individual, and any partnership, corporation, association, or other legal entity existing under or authorized by the law of the United States, any State or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any foreign country.

SEC. 503. No person shall be required to disclose in any Federal or State proceeding—

(1) the source of any published or unpublished information obtained in the gathering, receiving, or processing of information for any medium of communication to the public, or

(2) any unpublished information obtained or prepared in gathering, receiving, or processing of information for any medium of communication to the public.

SECTION-BY-SECTION ANALYSIS

TITLE I—AMENDMENTS TO FREEDOM OF INFORMATION ACT

SEC. 101. Short title. This title would regulate and limit the classification of material by the Executive branch, amends the Freedom of Information Act to emphasize that the intention is to make much more information available to the public.

Sec. 102. Amends paragraph (a) (3) of the Freedom of Information Act to provide the award of attorneys' fees and court costs to individuals who show that they have been improperly denied information by an agency.

Sec. 103. Housekeeping amendments.

Sec. 104. Adds paragraphs (d) through (g) to the Freedom of Information Act.

(d) Classification of information.

(1) States that the purpose of providing guidelines and limitations for Executive branch classification is to control the abuse of classification as it has come to be practiced. This abuse is so severe that security experts agree that somewhere between 75 and 99 percent of all current classification is unnecessary. Such examples of classification of newspaper articles and the classification of whole documents, no individual part of which is itself classified, are common. Such overclassification has been accomplished not under law, but solely on the authority of Executive order. The Executive order under which classification is now carried out (No. 11652) became effective June 1, 1972, with the announced purpose of bringing the classification system under rein. It has failed to do so, and many think the situation has worsened since its issuance.

This paragraph specifically states that by passing legislation governing classification the Congress would have no intention of encouraging classification or making the unauthoritzed disclosure of classified material a criminal offense. Classification would remain an executive *prerogative*—it would *not be mandated* by the Congress. Consequently, it would not be illegal to disclose classified matters, just as it is not now illegal. It would continue, however, to be illegal under the Espionage Act to disclose information with intent or reason to believe that it could be used to the injury of the United States. This is as it should be. To make simple disclosure a crime, without intent to injure, would be tantamount to creating an Official Secrets Act—something the United States has always avoided. To make mere disclosure a criminal offense would give any person who could use a classification stamp the authority to make criminals of other citizens. Such a law would certainly show little respect for the First Amendment.

(2) Stipulates that only one designation, "Secret Defense Data", may be used to classify information. The present use of three categories of classification—"Confidential", "Secret", and "Top Secret"—serves no useful purpose in protecting the national defense; it only inhibits the availability to the public of large volumes of information. Information either deserves protection, or it does not. This was the practice followed by the Congress in the Atomic Energy Act of 1954, the only place where classification has a sanction in law. Information to be protected is there designated "Restricted Data". The use of only one category of classification will not prevent the limited dissemination of information within the executive branch. Paragraph (d) (3) provides for the use of appropriate routing indicators, which would be not unlike such present designations as "Eyes Only" and "Lim Dis".

The criterion of classification would be protection of the national defense against either overt or covert hostile action. The term "national defense" is chosen purposefully, rather than "national security". The latter term is much broader, including the economic condition of the United States for instance, and its use as the criterion of classification would more severely restrict the availability of information to the public. Of course no criterion should justify the use of classification to conceal incompetence, wrongdoing, etc., and this is specifically spelled out in the bill.

(3) Requires that "Secret Defense Data" will be the exclusive designation used in classification. Provides for the use of routing indicators, as explained above.

(4) Limits the authority to classify to the President and such offices within the Executive Office of the President as he designates; the heads of the Departments of State, Defense, Treasury, Justice, Commerce, and Transportation; the heads of the military departments; and the heads of the AEC, CIA, and NASA. The needless proliferation of wielders of classification stamps has had a significant effect in denying information to the public. The bill meets this problem by lodging the authority to classify in only those agencies where it is operationally necessary, and then only in the heads of the agencies and such principal deputies as they designate in writing. Only those individuals whose daily operational responsibilities require such authority will be allowed to classify, and the heads of agencies will be required to review this authority twice a year, to determine each individual's continuing "need to classify". Any individual exercising classification authority will be furnished written instructions which set the boundries within which he may classify. The redelegation of classification authority will not be permitted, but the mere handling of classified material, in a clerical capacity, will not require the authority to classify.

(5) The heads of agencies exercising classification authority will be required quarterly to submit to the Comptroller General lists of all individuals with the authority to classify. Such lists shall also be available to the Congress. This will insure a public check on who is classifying public information.

(6) Prevents the classification of information by association. Under the present system it is common practice to classify an entire document, even though only a very small portion is actually sensitive. In some cases, a document is classified even when *no* part of it, taken separately, is classified.

(7) Requires that all classified material will clearly show: the designation "Secret Defense Data", any routing designator which may have been assigned, the office of origin, the date of origin, the name and title of the classification authority, and the date of classification. It will be further shown what part or parts of the material require protection, so that the remainder may be used without the encumbrance of classification.

(8) Allows the classification of information received from foreign governments and international organizations if unauthorized disclosure could be expected to damage the national defense or the defense of an allied government. Any such information would be available to the Congress, however, even if the foreign government or international organization had stipulated otherwise.

(9) Brings information classified by the present system under coverage of the bill.

(e) Declassification of information.

(1) (A) Provides that information which no longer needs to be classified to protect the national defense, or which simply no longer can be protected from unauthorized disclosure, will be declassified promptly. The Pentagon Papers are a good example for both these cases. They were first kept classified unnecessarily, and then, even after they were released, not all released portions were declassified.

(B) Except as provided in paragraph (2) below, requires that information classified under the provisions of this bill will be declassified automatically at the end of two years, regardless of whether or not it was marked to show the declassification. The following points from the 1970 Report of the Defense Science Board Task Force on Secrecy are relevant:

"It is unlikely that classified information will remain secure for periods as long as 5 years, and it is more reasonable to assume that it will become known to others in periods as short as 1 year."

"Classification of information has both negative as well as positive aspects. On the negative side, in addition to the dollar costs of operating under conditions of classification and of maintaining our information security system, classification establishes barriers between nations, creates areas of uncertainty in the public mind on policy issues, and impedes the flow of useful information within our own country as well as abroad."

"The volume of scientific and technical information that is classified could profitably be decreased by perhaps as much as 90 percent through limiting the amount of information classified and the duration of its classification."

"More might be gained than lost if our nation were to adopt—unilaterally, if necessary—a policy of complete openness in all areas of information . . ."

(C) Except as provided in paragraph (2) below, requires that information classified during the two-year period preceding the establishment of the new classification system will be declassified automatically two years from the date of its classification, unless that date is not known, in which case it will be declassified two years from the effective date of the bill.

(D) Except as provided in paragraph (2) below, requires that information classified prior to the two-year period preceding the effective date of the bill will be declassified automatically six months after the effective date.

(2) (A) Provides that the President or the head of an agency (but no one else) may assign a deferred automatic declassification date of up to two years to any information, rather than allow it to become declassified as set out in paragraphs (B), (C), or (D) above. Any such deferred classification date would itself automatically expire in not more than two years, but it could always be deferred for another two years. In order to

assign any such deferred declassification date, however, the President or head of an agency would be required to submit, in writing, to the Senate and House Committees on Government Operations and the Comptroller General a detailed justification for the continued classification. The committees, in turn, would be required to print these justifications as a public document at least annually. This process leaves the determination of whether or not information should be declassified in the hands of the agency which knows the material and circumstances best, but it assures periodic high level review and makes the Congress and the public aware that information exists, albeit in classified form. (Of course, some justifications for continued classification might themselves reveal information which should be kept secret. In this circumstance the bill provides that the justification will not be publicly printed, but will be available to the Congress.) This overall procedure also is in accord with the recommendation of the Defense Science Board Task Force on Secrecy that in each instance of classification there be set "a limit on the classification, as short as possible, which could be extended with detailed justification."

(B) Provides that any person (which would include the Congress) may bring a civil action to seek to enjoin a deferral of declassification or to order declassification on the grounds that such a deferral does not satisfy the requirements for classification, namely, protection of the national defense. In any such case, the burden would be on the President or the head of an agency to sustain his deferral. This procedure parallels the provision for judicial relief already contained in the Freedom of Information Act. It is essential if citizens are to have recourse in the face of needless governmental secrecy.

(3) Requires that the declassification of information will be made widely known through either an announcement describing the information declassified or notification of all holders of material which contains the declassified information.

(4) Provides that when material is declassified it will be so marked, showing the date of declassification and the name and title of the person who authorized the declassification. This requirement would not apply to material in storage or material to be destroyed.

(5) Provides that in cases of transferred functions or materials, the head of an agency need not have classification authority in order to declassify information if that information is under his jurisdiction.

(6) Provides that any officer or employee of the executive branch who has custody of classified material which he thinks should be declassified may recommend immediate declassification by the appropriate authority.

(f) Implementation.

(1) Provides that implementing regulations shall be prescribed jointly by the head of an agency and the Comptroller General. This will provide congressional oversight of executive classification procedures.

(2) Charges the Comptroller General with monitoring executive classification procedures.

(g) Prevents the withholding of information from the Congress or federal courts on the grounds that such information is classified. Although the Executive is reluctant to admit that it withholds information from the Congress on the basis of classification, it in fact does so. There can be only two possible justifications for this executive withholding. One would be that there is no "need to know" on the part of Congress, and the other would be that in the hands of the Congress information would soon lose its confidentiality. Neither answer suffices. There is assuredly a "need to know", for Congress must legislate, and it must have facts to do so. The argument for withholding information because Congress will destroy its confidentiality also fails. In the first place. Congress handles classified information all the time without "leaking" it. Executive withholding is selective. Secondly, it is a well-established constitutional principle that the fact that a power might be abused is no argument against its existence. Every power may be abused. Thirdly, the public release of information by the Congress is an important separation-of-powers check on excessive executive secrecy.

The need to specify that classification of information will not form the basis for withholding such information from the courts arises from the recent decision of the Supreme Court in *Environmental Protection Agency* v. *Mink*. In that case, it was the opinion of the Court that an examination of the Freedom of Information Act and the surrounding legislative history "negates the proposition that Exemption 1 [of the Freedom of Information Act, which allows withholding of information classified pursuant to executive order] authorizes or permits *in camera* inspection of a contested document bearing a single classification so that the court may separate the secret from the supposedly nonsecret . . ." Of course, the majority went on to say that ". . . in some situations, *in camera* inspection will be necessary and appropriate." But this concession is qualified by the further statement that *in camera* inspection may be ordered only after an agency first has been given the opportunity to ". . . demonstrate, by surrounding circumstances [without producing the documents], that particular documents are purely advisory and contain no separable, factual information." In the words of the majority opinion itself, an agency is ". . . entitled to attempt to demonstrate the propriety of withholding any documents, or portions thereof, by means short of submitting them for *in camera* inspection." The Court has in this decision adopted something less than careful judicial review of the executive's inclination to keep its secrets secret, and legislative clarification appears necessary to assure the free flow of information to the public.

SEC. 105. Exempts from the provisions of this title the classification of atomic energy information by the Atomic Energy Commission, which already is regulated by law and has not posed problems of the same order as other executive classification.

SEC. 106. Effective date.

TITLE II—CONGRESSIONAL PROTECTION

Sec. 201. Amends part II of title 18, United States Code, by adding at the end a new chapter 239 and a new section 3791.

§ 3791. Congressional protection.

(a) Provides that the courts shall have no jurisdiction to conduct criminal proceedings which relate to a legislative activity of a Member of Congress. Such an alteration of the jurisdiction of the courts—which the Congress has the undoubted power to regulate—is made necessary by the decisions in *United States* v. *Brewster* and *Gravel* v. *United States*, in which a majority of the Supreme Court held that the "Speech or Debate" clause of article I, section 6 of the Constitution does not bar grand jury investigations and criminal prosecutions against Members of Congress for deciding how to speak and vote, and for informing themselves and their constituents about maladministration and corruption in the Executive branch.

The Speech or Debate clause—which states that "for any Speech or Debate in either House, they [the Senators and Representatives] shall not be questioned in any other place"—has historically been construed broadly by the courts, to include much more than just speeches and debates delivered within the four walls of the Capitol. As Senator Sam Ervin has stated, it is the Congress' "First Amendment", preserving broad freedom to speak and act when Members of Congress do the people's business. The Constitution's Speech or Debate clause derives directly from a similar provision in the English Bill of Rights of 1689, which itself arose out of the case of Sir William Williams, Speaker of the House of Commons. Williams had republished, after it first appeared in the Commons Journal, a report about an alleged plot between the Crown and the King of France to restore Catholicism as the established religion of England. During the reign of James II, Williams was charged with libel and fined 10,000 pounds even though he had pleaded that the publication was privileged as necessary to the "counseling" and "enquiring" functions of Parliament. Shortly after Williams' conviction James II was sent into exile, and a committee was appointed by the House of Commons to report upon "such things as are absolutely necessary for securing the Laws and Liberties of the Nation." In reporting to the House, the chairman of the committee stated that the provision for freedom of speech and debate was included "for the sake of one . . . Sir William Williams, who was punished out of Parliament for what he had done in Parliament."

Flying in the face of this historical precedent, the Supreme Court in *Gravel* stated that "the English legislative privilege was not viewed as protecting republication"; and while acknowledging that prior cases have read the Speech or Debate clause "broadly to effectuate its purposes," and have included within its reach anything "generally done in a session of the House by one of its members in relation to the business before it," the Court severely narrowed its application by stating that:

"Legislating acts are not all-encompassing. The heart of the clause is speech or debate in either House, and insofar as the clause is construed to reach other matters, they must be an integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House."

While the *Gravel* case involved the question of protection of a Senator's aide from interrogation about republication of the Pentagon Papers, the *Brewster* case concerned the very different issue of an indictment of a former United States Senator for the solicitation and acceptance of bribes "in return for being influenced . . in respect to his action, vote, and decision" on certain legislation. Though Senator Brewster's actions centrally involved legislative activity, the Court drew a distinction between the *performance* of a legislative act and an *agreement to perform* the same. It thus was able further to erode the protection of the Speech or Debate clause by holding that ". . . a Member of Congress may be prosecuted under a criminal statute provided that the Government's case does not rely on legislative acts or the motivation for legislative acts." Chief Justice Burger, writing for the majority, then went on to devise an apparently gratuitous distinction between political acts and legislative acts:

"It is well known, of course, that Members of Congress engage in many activities other than the purely legislative activities protected by the Speech and Debate Clause. These include a wide range of legitimate 'errands' performed for constituents, the making of appointments with government agencies, assistance in securing government contracts, preparing so-called 'news letters'

to constituents, news releases, speeches delivered outside the Congress . . . Although these are entirely legitimate activities, they are political in nature rather than legislative. . ."

Thus, in the *Brewster* and *Gravel* decisions, the Court restrictively defined "legislative acts" and limited the scope of Speech or Debate immunity to those acts. The legislator has been left with no protective immunity from Executive branch harassments such as subpoenaing him to testify as to his confidential sources of information and prosecuting him for unpopular legislative acts on the grounds that they are improperly motivated. This danger was recognized by Justices White, Douglas, and Brennan, dissenting in *Brewster*:

"[T]he opportunities for an executive, in whose sole discretion the decision to prosecute rests . . ., to claim that legislative conduct has been sold are obvious and undeniable. These opportunities, inherent in the political process as it now exists, create an enormous potential for executive control or legislative behavior by threats or suggestions of criminal prosecution—precisely the evil which the Speech or Debate Clause was designed to prevent"

Similarly, Justice Brennan, writing in dissent for himself, Justice Douglas, and Justice Marshall, warned of the dangers to public dialogue posed by the majority's opinion in *Gravel:*

"Whether the Speech or Debate Clause extends to the informing function is an issue whose importance goes beyond the fate of a single Senator or Congressman. What is at stake is the right of an elected representative to inform, and the public to be informed, about matters relating directly to the workings of our Government. The dialogue between Congress and people has been recognized, from the days of our founding, as one of the necessary elements of a representative system. We should not retreat from that view merely because, in the course of that dialogue, information may be revealed that is embarrassing to the other branches of government or violates their notions of necessary secrecy. A member of Congress who exceeds the bounds of propriety in performing this official task may be called to answer by the other members of his chamber. We do violence to the fundamental concepts of privilege, however, when we subject that same conduct to judicial scrutiny at the instance of the Executive."

(b)(1) Provides that before a subpoena which relates to legislative activity of a Member of Congress can be issued it must be personally approved by the Attorney General. The Attorney General is also required to notify, at least 48 hours in advance of its issuance, the Member concerned and the President pro tempore of the Senate in the case of a Senator and the Speaker of the House in the case of a Representative. This procedure will assure that legislative immunity is not infringed upon without the Member or his House being aware of the government action. It also will allow time for the Member to move to quash the subpoena, as provided in subsection (c).

(2) Provides that if a Member and his House have not been notified as provided in paragraph (1), and if testimony is being taken in a criminal proceeding which relates to that Member's legislative activity, then the court will stay the proceedings and give the Member an opportuntiy to move to quash those subpoenas pursuant to which the testimony is being taken, as provided in subsection (c).

(c) Provides that if a subpoena is issued to anyone with respect to any activity of a Member of Congress, that Member may move to quash the subpoena on the grounds that it relates to his legislative activity, and hence is beyond the jurisdiction of the court. Upon such a motion, the subpoena in question shall be stayed and a hearing held to determine its proper disposition. The subpoena shall be quashed unless the government (1) states with particularity the information it intends to receive as the result of the issuance of the subpoena and (2) proves beyond reasonable doubt that the subpoena does not relate to the Member's legislative activity. If the government satisfies these conditions the court may order the enforcement of the subpoena, but the order shall specify as narrowly as practicable the information about which the government may inquire in order to prevent questioning concerning legislative activity.

These procedures provide Members of Congress a mechanism by which they can prevent executive inquiry into their legislative activity, either through requiring them to testify directly or through the testimony of third parties. This will prevent the abuses countenanced by the Supreme Court in *Brewster* and *Gravel,* where third party inquiry was in no way circumscribed and where protection against even direct questioning was limited to only the most narrowly conceived legislative activities.

(d) Definitions.

(1) "Court" is defined as under section 451 of title 28.

(2) "Legislative activity" is defined generally as any activity of a Member of Congress relating to the due functioning of the legislative process and carrying out the obligations a Member of Congress owes to the Congress and his constituents. This broad language includes all constitutionally delegated responsibilities of the Congress, and is meant to encompass legislative oversight of the executive departments and the function of informing one's constituents and one's colleagues. The term is further specifically defined to include speeches, debates, and votes, whether on the floor or in committee; gathering or receipt of information for use in legislative proceedings; speeches or publications outside of Congress informing the public on matters of national or local importance; and the motives and processes by which a decision was made with respect to any of the foregoing. This definition includes several activities specifically supposed by the Supreme Court not to be a part of legislative activity.

(3) "Member of Congress" is defined to mean either a present or a former Member, a protection clearly shown to be necessary by government prosecution of former Senator Brewster. Legislative integrity will not be preserved if Members are subject to executive harassment when they are no longer in office.

SEC. 202. Amends the table of chapters of part II of title 18.

TITLE III—OFFICE OF THE GENERAL COUNSEL TO THE CONGRESS

SEC. 301. Establishes a new entity within the Congress, to be known as the Office of the General Counsel to the Congress.

SEC. 302. Stipulates that the purpose of this new office will be to provide legal advice, representation, counseling, etc. to the Congress and its committees and Members in those matters relating to their official responsibilities. The services of the office could not be used on personal legal matters. The office would be required to serve all committees and Members equally, and to perform those functions set out in section 303 when requested to do so by the appropriate authority, unless directed otherwise by the House or the Senate or the Congress as a whole. This procedure will assure that each Member and committee will be able to obtain legal assistance in protecting his or its legislative prerogatives, even if the matter in question is an unpopular cause, unless there is in effect disciplining of the Member or committee by the body as a whole. This is in keeping with the constitutional provision that "Each House may determine the Rules of its Proceedings, [and] punish its Members for disorderly Behavior . . ."

The Congress and its committees and Members are, from time to time, involved as parties litigant. This has been increasingly true in recent years, and in the 92nd Congress alone some 205 Members were directly concerned with litigation affecting Congress. Many of these cases have been private suits against Members; some, such as *Mink* v. *Environmental Protection Agency,* have involved efforts by Members of Congress to obtain information from the Executive; and still others, such as *United States* v. *Brewster, Gravel* v. *United States,* and *Doe* v. *McMillan,* have concerned the question of legislative immunity under the Speech or Debate clause of the Constitution. Historically, representation in such cases has been by private counsel or by the Department of Justice. In a few cases—for example. *Powell* v. *McCormack*—the Congress has had its own counsel under special arrangement.

If the Congress is to preserve its independence as a separate branch of the government, it is important that it establish its own General Counsel to defend it, to compel executive compliance with the law and with requests for information, and to preserve its integrity through strong assertion of legislative immunity. The cost of retaining private counsel for these purposes is almost prohibitive, and in other ways not as satisfactory as having representation by an official of the Congress itself. The alternative of turning such matters over to the Department of Justice is not always available, as when congressional positions run counter to executive policy, but even when it is, such representation is often not particularly aggressive or enthusiastic. Each branch of the government, under the constitutional separation of powers, must ultimately discharge its responsibilities based on independent judgments, and one branch cannot and should not be dependent on the other branches for guidance and direction.

SEC. 303. Functions of the Office of the General Counsel to the Congress.

(a) Provides that upon request of the Congress, either of its Houses, or any of its committees, civil action may be commenced against any officer of the government to compel compliance with any law. For example, the Congress might wish, under this provision, to bring action against the President to force him to release impounded funds.

(b) Provides that upon request of the Congress, either of its Houses, any Member or any committee or subcommittee, civil action may be commenced against any officer of the government to compel compliance with any request for information. The legal assistance provided under this provision could have been used by Representative Patsy Mink and 32 other Members of the House when they sought to obtain several documents relating to the proposed underground nuclear test at Amchitka Island, Alaska. It also could be used, for instance, by the Senate or House Committee on Government Operations to challenge the assignment of a deferred declaration date, as provided by subsection (e)(2)(B) of the Freedom of Information Act, as amended by section 104 of title I of this bill.

(c) Provides that upon request of the Congress, either of its Houses, any Member, or any committee or subcommittee, the Office of General Counsel may represent any of the aforenamed or any former Member of Congress or any officer or employee of Congress in any civil or criminal action arising in connection with their official responsibilities. This provision would provide legal assistance to the many Members of Congress and the several committees against whom suits are brought. It also would have provided assistance to former Senator Daniel Brewster

when he was indicted on charges of soliciting and accepting a bribe, if the Congress had so requested.

(d) Provides that upon request of the Congress, either of its Houses, any Member, or any committee or subcommittee, the Office of General Counsel may intervene as a party before any grand jury proceeding or in any civil or criminal proceeding. Under this provision Senator Mike Gravel could have received legal assistance when he moved to intervene in an action brought by aide Leonard Rodberg to quash a subpoena issued by a federal grand jury convened to investigate matters relating to the public disclosure of the Pentagon Papers.

(e) Provides that upon request of the Congress, either of its Houses, or any of its committees, the Office of General Counsel may appear before any federal court as amicus curiae in cases involving the intent and meaning or constitutionality of legislation or of any action of either House. This provision would have applied, for instance, when the Senate filed an amicus brief before the Supreme Court in the Gravel case.

(f) Provides that the Office of General Counsel will review periodically the rules and regulations issued by the various agencies, to determine if they are authorized by the legislation under which they purport to be issued. Oversight of this type would significantly increase congressional control over the agencies which often issue regulations which substantially alter the law enacted.

(g) Charges the Office of General Counsel with the responsibility of bringing to the attention of the Congress any matters which relate to the functions and duties of the Congress or its Members.

(h) Provides that the Office of General Counsel will furnish advice and other appropriate services in connection with its other functions.

Sec. 304. Provides that the Office will be under the direction of the General Counsel to the Congress, who will be appointed by unanimous action of the President pro tempore of the Senate, the Speaker of the House, and the majority and minority leaders of the two Houses. The General Counsel would serve for only one ten-year term, and he could be removed from office by unanimous action of the leaders.

Sec. 305. Provides that the General Counsel may appoint such staff as is required for the Office, subject to approval of the leaders. All appointments would be made solely on the basis of fitness to perform the duties of the position.

Sec. 306. Provides that compensation of the General Counsel will be at the rate of Executive level III, and that compensation of other staff will be at rates not to exceed that of Executive level V.

Sec. 307. Authorizes expenditures for the operation of the Office, in accordance with policies and procedures approved by the leaders.

Sec. 308. Provides that the Office will have the privilege of free transmission of mail.

Sec. 309. Authorization of appropriations.

TITLE IV—PRIVILEGED INFORMATION

Section 401. Amends chapter 6 of title 2, United States Code, by adding a new section 192a.

§ 192a. Privileged information.

(a) Declares it to be the policy of the United States that any information in the possession of the Executive branch is to be made available to the Congress in order that it may discharge in an informed manner those duties and responsibilities given it by the Constitution. In 1927, a unanimous Supreme Court in *McGrain* v. *Daugherty*, 273 U.S. 135, 174–5, stated that:

". . . the power of inquiry—with process to enforce it—is an essential and appropriate auxiliary to the legislative function. . . . A legislative body cannot legislate wisely or effectively in absence of information respecting the conditions which the legislation is intended to affect or change; and where the legislative body does not itself possess the requisite information—which frequently is true—recourse must be had to others who possess it. . . ."

The principle of Executive accountability to Congress was asserted from the outset of the nation's history. In 1789 Congress adopted a statute stating that:

"[I]t shall be the duty of the Secretary of the Treasury . . . to make report, and give information to either branch of the legislature in person or in writing (as he may be required), respecting all matters referred to him by the Senate or House of Representatives, or which shall appertain to his office. . ." [1 Stat. 65–66 (1789) (now 31 U.S.C. 1002)]

This provision was drafted by Alexander Hamilton himself, and the statute makes no provision for executive discretion to withhold. Not only was this a constitutional interpretation by the First Congress, but it also was approved by President Washington, who signed it. Since the First Congress, many other statutes have been passed requiring the various agencies to turn over information to the Congress upon request. But the original statute was itself at an early date applied by extension to all departments. In 1854 Attorney General Cushing furnished this advice to the President:

"By express provision of law, it is made the duty of the Secretary of the Treasury to communicate information to either House of Congress when desired: and it is practically and by legal implication the same with the other secretaries, and with the Postmaster and the Attorney General."

(b) Defines the terms "agency", "employee", and "Government" in such a way as to impose the requirements of the section upon all individuals within the Executive branch, including advisors to the President.

(c) Stipulates that any officer or employee of the Government summoned or requested to testify or produce information before the Congress or any of its committees may not refuse to appear on the grounds that the requested testimony or information is privileged. Although it is almost undeniable that some information will be privileged, the privilege clearly runs to *information* and not to individuals. Accordingly, if an employee of the Executive branch is requested to testify, even if he plans to claim that the requested testimony is privileged, he should appear to explain the reasons for his refusal. There is no reason to immunize the Executive from the burden of justifying its failure to testify. The Congress is entitled to at least an appearance.

This subsection further stipulates that any individual appearing as a witness may be questioned concerning (1) information within his immediate knowledge or jurisdiction and (2) policy decisions that he personally made or implemented. This procedure will assure that the Congress gets the information it needs, while at the same time preventing abuse of lesser officials by congressional committees. It is somewhat unseemly, not to say unproductive, for Congress to badger minor bureaucrats about matters over which they have no real control.

If a witness is questioned about matters within his authority, and he refuses to answer and asserts that the information requested is privileged, he will be required to justify his claim of privilege, and it shall then be a question of fact for the committee to determine whether or not the plea of privilege is well taken. There are several grounds on which a claim of privilege might be asserted, and which the committee would need to evaluate in the individual case. For example: (a) the information is made confidential by statute (b) the information is solely of the nature of advice to a superior (c) the information concerns pending litigation and must be protected to assure an individual his right of privacy. Each of these pleas of privilege, which might be considered well taken in a given instance, have frequently been included under the rubric "executive privilege", but a claim of executive privilege should not be accepted in such unrefined form.

Executive privilege—the alleged power of the President to withhold information, the disclosure of which he feels would impede the performance of his constitutional responsibilities—supposedly has its constitutional basis in article II section 3, where the President is charged with seeing that the laws are faithfully executed. But this can be no grounds for refusing information to the Congress, which, as shown above, has both a constitutional and a statutory right to require whatever information it needs to make those laws which shall be "necessary and proper" for carrying out its responsibilities. As early as 1838 the Supreme Court asserted in *Kendall* v. *United States* that: "To contend that the obligation imposed upon the president to see the laws faithfully executed implies a power to forbid their execution, is a novel construction of the Constitution, and entirely inadmissible."

A congressional request for information is too important to be blocked even by a refusal from the President. For this reason, it would be a mistake simply to require that the President personally direct an assertion of the privilege, as some have suggested. Although it is best that an assertion of privileged communication with the President, for instance, not be made without presidential approval, it would be a grave error to concede that the President has any such uncontrolled discretion to deny the Congress information. This is not a decision which can be made by the Executive alone. In a case in which the Congress has legitimate authority, but in which the President contends that disclosure would hinder the discharge of his constitutional powers, recourse must be had to the courts.

Subsection (c) provides this recourse by requiring that if a witness is ordered by a committee to comply with a request for information even after he has asserted the information to be privileged, he may be held in contempt if he still continues to refuse. If a standoff of this sort were reached, there would be two ways to get the matter before the court. One would be for the Congress to punish the contempt by having the Sergeant at Arms seize the offender and imprison him in the common jail of the District of Columbia or the guardroom of the Capitol Police. The case would then be brought before the court through the issuance of a writ of habeus corpus. Alternatively, under section 303(b) of title III of this bill, the committee could direct the General Counsel to the Congress to commence civil action against the recalcitrant official to compel compliance with the request for information. That the court would have authority to decide between the claims of the contending parties in such a circumstance is fairly well established. In *United States* v. *Reynolds* in 1953, the Supreme Court asserted that executive privilege was "not to be lightly invoked," that "the Court itself must determine whether the circumstances are appropriate for the claim of privilege," and that "judicial control over the evidence in a case cannot be abdicated to the caprice of executive officers." In a much earlier case, *United States* v. *Burr*, Chief Justice Marshall ruled in 1807 that:

"That the president of the United States may be subpoenaed, and examined as a witness, and required to produce any paper in his possession, is not controverted. . . .

The occasion for demanding it ought, in

such a case, to be very strong, and to be fully shown to the court before its production could be insisted on."

The Chief Justice did in fact require President Jefferson to produce the letter in question in this case.

(d) This subsection is the same as (c) above, except that it pertains to written requests for information rather than oral testimony, and it includes the individual Members of Congress and the General Accounting Office in its provisions as well as the committees of Congress. Individual Members and the GAO would not, however, have the contempt power.

(e) Provides that this section cannot be used as authority to require any member of the Executive branch to make available to the Congress the nature of any advice, recommendation, or suggestion made to or by such person in connection with matters solely within the scope of such person's official duties. Just as aides to Members of Congress and clerks for judges should not be required to reveal the advice they give their employers, so members of the Executive branch should not be so compelled. This exemption does not include, however, any information or material included within or forming the basis of such advice.

(f) Disclaims any intention of sanctioning a doctrine of executive privilege or permitting the refusal of information on the grounds that it constitutes "internal working papers".

Sec. 402. Amends the chapter analysis to include this new section.

TITLE V—COMMUNICATIONS MEDIA PRIVILEGE

Sec. 501. Short title.

Sec. 502. Definitions.

(1) "Federal or State proceeding" is defined to include proceedings or investigations before judicial, legislative, executive, and administrative bodies. State, as well as federal, proceedings are included because most of the current controversy over press freedom has arisen at the State level, and the law in even those States which have so-called "shield laws" has not been adequate to protect newsmen.

(2) "Medium of communication" is defined to include books as well as more traditional sources of news, and includes electronic as well as print media.

(3) "Information" is defined to include oral and pictorial, as well as written, news.

(4) "Published information" is defined to include all information disseminated to the public by the person from whom disclosure is sought.

(5) "Unpublished information" is defined to include all information not disseminated to the public by the person from whom disclosure is sought, regardless of whether published information based upon such material has been disseminated.

(6) "Processing" is defined to include compiling, storing, and editing of information.

(7) "Person" is defined to include partnerships, corporations, associations, etc. as well as individuals.

Sec. 503. Stipulates that no person will be required to disclose in any federal or State proceeding (1) the source of any published or unpublished information obtained in the gathering, receiving, or processing of information for any medium of communication to the public, or (2) any unpublished information obtained or prepared in gathering, receiving, or processing of information for any medium of communication to the public.

This section grants the unqualified privilege from disclosure recommended by the American Newspaper Publishers Association. Legislation to provide this immunity is required in face of the 5 to 4 Supreme Court decision in *United States* v. *Caldwell* that the First Amendment does not relieve a newspaper reporter of the obligation that all citizens have to respond to a grand jury subpoena and answer questions relevant to a criminal investigation. As Justice Stewart stated, writing for the minority:

"The Court's crabbed view of the First Amendment reflects a disturbing insensitivity to the critical role of an independent press in our society. . . . The Court . . . invites state and federal authorities to undermine the historic independence of the press by attempting to annex the journalistic profession as an investigative arm of government." If newsmen are required to reveal their confidential sources and information, press informants will "dry up", and the public will receive nothing but the official line on government actions. Similarly, inside coverage of crime and unpopular organizations and ideas will also be severely diminished.

It has been argued that the proposed unqualified immunity should not apply when a newsman is the defendant in a libel action. However, because of the decision in *New York Times Company* v. *Sullivan*, in which the Supreme Court ruled that in libel actions brought by public officials and public figures recovery can be had for a defamatory falsehood only if it is published with actual malice, there is almost no possibility of succeeding in such a case against a newsman, so little is lost by making the privilege absolute. On the other hand, to allow libel suits against newsmen when they are otherwise protected from government intimidation might simply subject them to harassment through frequent libel actions, even though they in all probability would not be successful.

By Mr. INOUYE (for himself, Mr. ABOUREZK, Mr. ALLEN, Mr. CRANSTON, Mr. DOMINICK, Mr. ERVIN, Mr. FANNIN, Mr. HOLLINGS, Mr. HUGHES, Mr. PASTORE, Mr. RIBICOFF, Mr. STEVENS, Mr. THURMOND, and Mr. YOUNG):

S. 1727. A bill to incorporate the Pearl Harbor Survivors Association. Referred to the Committee on the Judiciary.

Mr. INOUYE. Mr. President, today I have introduced a bill to incorporate the Pearl Harbor Survivors Association. This measure would bestow Federal recognition on this private nonprofit association but would not affect its legal, corporate, or other status.

The association is comprised of men and women who defended our Nation against the historic Japanese attack on the U.S. Pacific Fleet and bases around Pearl Harbor on December 7, 1941. Since 1941, survivors of the Pearl Harbor attack have formed many local and regional groups, and there are now 101 active chapters located in almost every State. Their national organization, the Pearl Harbor Survivors Association, was incorporated in Missouri in 1958.

An estimated 12,500 surviving members of the U.S. Armed Forces served at Pearl Harbor and in the area of Oahu Island during the December 7 attack. Of that number, the Pearl Harbor Survivors Association has an active membership of 5,259 men and women. Anyone who was a member of the Armed Forces on Oahu or who was stationed aboard a ship located within 3 miles of the island on December 7, 1941, is eligible to join. Members must either have been honorably discharged or still be a member of our Armed Forces. The association conducts regular chapter, district, and State meetings, and a biennial national convention.

The motto of the organization is "Keep America Alert," which the association seeks to accomplish by preserving historical momentos and chronicles of the Pearl Harbor attack; protecting graves of Pearl Harbor victims; and stimulating Americans to take a more active interest in the affairs and future of the United States. The association has been particularly active in veterans' causes and national preparedness.

The association is unique because it will exist only as long as there are Pearl Harbor survivors. In order for the association to be more effective, it is imperative that it be recognized through the granting of a Federal charter. I believe the association fulfills all of the necessary requirements.

I am proud to sponsor this legislation as are the cosponsors who joined me in this effort. I ask unanimous consent to have printed in the CONGRESSIONAL RECORD a statement by the Pearl Harbor Survivors Association. I believe it best summarizes the purpose of the organization.

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

REMEMBER PEARL HARBOR

On that peaceful Sunday morning, December 7th, 1941, an enemy attack force hit Pearl Harbor with all its fury of death and destruction. In only 30 short minutes the attackers accomplished their most important mission, they had wrecked the battle force of the United States Pacific Fleet. We also lost half of the military aircraft on the island. We accounted for ourselves as military, by fighting back, not yet aware that history had been thrust upon us. Pearl Harbor was the actual beginning of the great war which was to change the ehtire political structure of the world. We Americans who were there, demonstrated that we were prepared to give our lives, and did give them when necessary. Our sacrifice at Pearl Harbor united the nation and gave rise to a determination to protect and keep the American freedom. Our sacrifice alerted a relaxed nation, brought it to its feet and caused it to win World War II. The lesson we learned by our sacrifice will not be easily forgotten. Many of us are no longer of use as sailors, soldiers, marines and airmen. We must make ourselves useful at home, by dedicating ourselves to the principals of freedom; by doing everything within our power to bring about a commitment of patriotism. We survivors who are still alive, and to those that did not survive, we can never permit ourselves to become vulnerable again.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 151

At the request of Mr. HARTKE, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 151, the Foreign Trade and Investment Act of 1973.

S. 608

At the request of Mr. KENNEDY, the Senator from Iowa (Mr. HUGHES) was added as a cosponsor of S. 608, a bill to authorize certain retirement and pay benefits to military and civilian personnel who were prisoners of war.

S. 1005

At the request of Mr. CASE, the Senator from Illinois (Mr. PERCY), the Senator from Minnesota (Mr. HUMPHREY), the

Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. PELL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Michigan (Mr. HART), the Senator from California (Mr. CRANSTON), the Senator from Vermont (Mr. STAFFORD), the Senator from California (Mr. TUNNEY), and the Senator from Maine (Mr. MUSKIE) were added as cosponsors of S. 1005, a bill to amend the National School Lunch Act, as amended, to assure that the school food service program is maintained as a nutrition service to children in public and private schools, and for other purposes.

S. 1167

At the request of Mr. HART, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 1167, a bill to supplement the antitrust laws, and to protect trade and commerce against oligopoly power or monopoly power, and for other purposes.

S. 1255

At the request of Mr. MUSKIE, the Senator from North Dakota (Mr. BURDICK) and the Senator from Utah (Mr. Moss) were added as cosponsors of S. 1255, the Property Tax Relief and Reform Act of 1973.

S. 1423

Mr. ROBERT C. BYRD. Mr. President, at the request of Mr. WILLIAMS, I ask unanimous consent that at the next printing the following names be added as cosponsors of the bill (S. 1423) to amend the Labor-Management Relations Act to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services: Messrs. RANDOLPH, DOMINICK, GURNEY, PELL, NELSON, MONDALE, CRANSTON, and HATHAWAY.

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

S. 1500

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the next printing the name of the Senator from Colorado (Mr. HASKELL) be added as a cosponsor of my bill (S. 1500) to establish a tenure of office of 7 years for the office of the FBI Director and the Deputy Director, and for other purposes.

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

S. 1541

Mr. ROBERT C. BYRD. Mr. President, at the request of the Senator from Maine (Mr. MUSKIE), I ask unanimous consent that at the next printing his name be added as a cosponsor of S. 1541, the Congressional Budgetary Procedure Act of 1973.

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

S. 1563

At the request of Mr. TUNNEY, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of S. 1563, a bill to enable domestic growers or canners of seasonal fruits or vegetables or of fruit juices, fruit nectars, or fruit drinks prepared from such seasonal fruits, which were packed in hermetically sealed containers and sterilized by heat to secure an adjudication of certain claims for losses in the court of claims.

S. 1579

At the request of Mr. DOLE, the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of S. 1579, a bill to provide for the demonstration of models of living arrangements for severely handicapped adults as alternatives to institutionalization and to coordinate existing supportive services necessitated by such arrangements, to improve the coordination of housing programs with respect to handicapped persons.

S. 1664

At the request of Mr. CHURCH, the Senator from Utah (Mr. Moss) was added as a cosponsor of S. 1664, a bill to prohibit any material to be enclosed with any social security check which contains the name, signature, or title of any Federal officer other than the Commissioner of the Social Security Administration, and for other purposes.

S. 1666

At the request of Mr. ROBERT C. BYRD (for Mr. GRAVEL), the Senator from South Dakota (Mr. ABOUREZK) and the Senator form Nevada (Mr. BIBLE) were added as cosponsors of S. 1666, a bill to establish improved standards to achieve efficient mail service, to provide an effective method of reimbursing the U.S. Postal Service for public service costs while maintaining a reasonable postal rate structure.

S. 1682

At the request of Mr. HARTKE, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 1682, a bill to amend the Foreign Assistance Act of 1961 to prohibit foreign assistance to those countries listed, not taking adequate measures to end illicit opium production, and for other purposes.

S. 1690

At the request of Mr. ROBERT C. BYRD (for Mr. GRAVEL), the Senator from Montana (Mr. METCALF) was added as a cosponsor of S. 1690, a bill to establish a National Amateur Sports Development Foundation.

S. 1708

At the request of Mr. CRANSTON, the Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. HUGHES), and the Senator from Maine (Mr. MUSKIE) were added as cosponsors of S. 1708, a bill to amend title X of the Public Health Service Act to extend appropriations authorizations for 3 fiscal years and to revise and improve authorities in such title for family planning services programs, planning, training, and public information activities, and population research.

SENATE JOINT RESOLUTION 4

At the request of Mr. DOLE, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of Senate Joint Resolution 4, to authorize and request the President to issue a proclamation designating a week as "National Welcome Home Our Prisoners Week" upon the release and return to the United States of American prisoners of war in Southeast Asia.

SENATE JOINT RESOLUTION 98

At the request of Mr. HUMPHREY, the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Nevada (Mr. BIBLE) were added as cosponsors of Senate Joint Resolution 98, a joint resolution relating to nationwide gasoline and oil shortages.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 106

At the request of Mr. BROOKE, the Senator from Wyoming (Mr. HANSEN), the Senator from South Carolina (Mr. THURMOND), and the Senator from Ohio (Mr. TAFT), were added as cosponsors of Senate Resolution 106, a resolution urging the Attorney General to appoint a special assistant in connection with the Presidenital election of 1972.

ESTABLISHMENT OF A COUNCIL ON ENERGY POLICY—AMENDMENT

AMENDMENT NO. 109

(Ordered to be printed and to lie on the table.)

Mr. METCALF submitted an amendment, intended to be proposed by him, to the bill (S. 70) to promote commerce and establish a Council on Energy Policy, and for other purposes.

AMENDMENT OF PUBLIC HEALTH SERVICE ACT—AMENDMENTS

AMENDMENTS NOS. 110 THROUGH 113

(Ordered to be printed, and to lie on the table.)

Mr. DOMINICK submitted four amendments, intended to be proposed by him, to the bill (S. 14) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 61

At the request of Mr. NELSON, the Senator from New York (Mr. JAVITS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Oregon (Mr. PACKWOOD), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of amendment No. 61, intended to be proposed to the bill (S. 268) to establish a national land-use policy, to authorize the Secretary of the Interior to make grants to assist the States to develop and implement State land-use programs, and for other purposes.

AMENDMENT NO. 79

At the request of Mr. ROBERT C. BYRD (for Mr. JACKSON), the Senator from Louisiana (Mr. LONG) was added as a cosponsor of amendment No. 79, intended to be proposed to the bill (H.R. 6767) the Trade Reform Act of 1973.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD (for Mr. EASTLAND). Mr. President, the following

nominations have been referred to and are now pending before the Committee on the Judiciary:

Louis O. Aleksich, of Montana, to be U.S. marshal for the district of Montana for the term of 4 years (reappointment).

Paul J. Curran, of New York, to be U.S. attorney for the southern district of New York for the term of 4 years, vice Whitney North Seymour, Jr., resigning.

William J. Deachman III, of New Hampshire, to be U.S. attorney for the district of New Hampshire for the term of 4 years, vice David A. Brock, resigned.

Benjamin F. Holman, of the District of Columbia, to be Director, Community Relations Service (reappointment).

James L. Treece, of Colorado, to be U.S. attorney for the district of Colorado for the term of 4 years (reappointment).

At Senator EASTLAND's request and on behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Monday, May 12, 1973, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARINGS ON BILLS TO CODIFY, REVISE, AND REFORM THE FEDERAL CRIMINAL LAWS

Mr. McCLELLAN. Mr. President, I wish to announce for the information of the Members of the Senate and the public that open hearings have been scheduled for May 15 and 16 on bills to codify, revise, and reform the Federal criminal laws. The hearings on May 15 will commence at 10 a.m. in room 1318, Dirksen Senate Office Building; and the hearing on May 16 will begin at 10 a.m. in room 2228, Dirksen Senate Office Building. The following witnesses are scheduled to appear at this series of our hearings:

Tuesday, May 15, 1973, 10 a.m., room 1318, Dirksen Senate Office Building:

Hon. Henry E. Peterson, Assistant Attorney General, Criminal Division, Department of Justice; Offenses involving internal revenue, civil rights, elections, and private communications.

Wednesday, May 16, 1973, 10 a.m., room 2228, Dirksen Senate Office Building:

Dean Abraham S. Goldstein, Law School, Yale University; the insanity defense.

Mr. Harold W. Bank, Hawkins, Delafield & Wood, New York, N.Y.; national security.

Mr. George W. Liebmann, Frank, Bernstein, Conaway & Goldman, Baltimore, Md.; codification.

Prof. David E. Engdahl, School of Law, University of Colorado; jurisdictional concepts.

Additional information on the hearings is available from the subcommittee in room 2204, Dirksen Senate Office Building, telephone AC 202–225–3281.

ANNOUNCEMENT OF FIELD HEARING ON "BARRIERS TO HEALTH CARE FOR OLDER AMERICANS"

Mr. MUSKIE. Mr. President, as chairman of the Subcommittee on Health of the Elderly, Special Committee on Aging, I would like to announce that the subcommittee will continue its inquiry into "Barriers to Health Care for Older Americans" with a hearing at 9:30 a.m. on May 16 in the Illinois Auditorium, Illinois Building, State Fairgrounds, Springfield, Ill. The subcommittee has already conducted 2 days of hearings on this subject in Washington, D.C., and a field hearing in Livermore Falls, Maine. Additional field hearings are contemplated.

NOTICE OF RESCHEDULING OF HEARINGS ON S. 1636

Mr. STEVENSON. Mr. President, on behalf of the Subcommittee on International Finance of the Committee on Banking, Housing, and Urban Affairs, I announce that the hearings on S. 1636, a bill to amend the International Economic Policy Act of 1972, previously scheduled for May 9, 10, and 11 have been rescheduled. The hearings will be held on May 14 at 10 a.m. and 2 p.m. and on May 15 at 10 a.m. All sessions will take place in room 5302, Dirksen Senate Office Building. Questions and requests to testify may be addressed to Mr. Basil Condos, 456 Russell Senate Office Building—telephone 225–2854.

AUTHORIZATION FOR SUBCOMMITTEE ON PRIVATE PENSION PLANS TO HOLD HEARINGS ON MAY 21, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, at the request of Mr. NELSON, that his Subcommittee on Private Pension Plans for the Finance Committee be permitted to hold hearings at 1 o'clock p.m. on May 21.

I assume that the Senator in making this request at this advanced date probably has in mind the scheduling of witnesses who may have to travel from afar. He would, therefore, be assured before scheduling such witnesses that the committee would be authorized to hold hearings.

I offer that as a possible explanation.

Mr. GRIFFIN. Mr. President, reserving the right to object—and I shall not object—I note the observation of the distinguished majority whip, and on the basis of that observation, will not object, although it is rather unusual to get permission so far in advance, and I hope that it would not be anything that we would see on a continuing basis.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. If the distinguished assistant Republican leader would like me to do so—I could very easily do it—I could check with the Senator from Wisconsin (Mr. NELSON) to be sure as to whether or not those are the reasons.

Therefore, I withdraw the request for the time being.

Mr. GRIFFIN. Mr. President, I have no objection.

Mr. ROBERT C. BYRD. The Senator has no objection. Then, I renew my request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE 25TH ANNIVERSARY OF THE STATE OF ISRAEL

Mr. MUSKIE. Mr. President, today marks the 25th anniversary of the founding of the State of Israel. Last night, I had the pleasure of celebrating this historic occasion as the guest speaker at an Israel Bond Drive dinner in Cincinnati, Ohio. I would like to take this opportunity to repeat some of the thoughts I expressed yesterday.

Mr. President, I believe that America and Israel are joined together by the faith we share, really a utopian faith that men can live in justice, work toward perfection, committed to liberation and confident of success. Our common dream is our common bond.

In this year—the 25th since the founding of Israel, the 30th since the destruction of the Warsaw Ghetto, the 1,900th since the fall of the fortress at Masada—the lesson of past suffering often seems to be spelled out too bleakly in the sight of modern Israel's armed strength. Today an independence parade through the streets of Jerusalem will stress the nation's military preparedness.

Some Israelis are critical of plans to celebrate their nationhood through a display of armament. And outside Israel, we can hear even well-meaning critics complain of her apparent belligerence, her absorption with defense and readiness for war.

But such faultfinders—and many of them, of course, are not well meaning—miss the point about the tension between dream and reality in Israel. They overlook the promise Israel holds out to her neighbors and to the world and identify the legitimate concern for self-protection as a threat to peace in the Middle East.

No one who has been to Israel and had his eyes opened to her energy and her promise would foster such dangerous confusion. I was fortunate enough to visit Israel 2 years ago, and the images that remain with me are of strength, but not violence, of hope, not menace.

I remember, for instance, going to Kibbutz Gesher on the west bank of the Jordan River, where I saw the bomb shelters. The walls of those bunkers were decorated by children's pictures, and not one picture showed a scene of the fighting which was the everyday reality for the youngsters there.

The paintings were of flowers and of sunshine. The dream of the artists was of peace, not of the war that has been their fate.

And at a Nahal settlement in the Golan Heights, I remember talking to a 23-year-old farmer-soldier named Yeheskel. I asked him what, in that still

endangered and bitter terrain, he and his friends did with the little leisure they had.

"We have our books," he said, "and we love this view over the Sea of Galilee. And we talk about the future, about peace."

It is possible, of course, to go to Israel and to feel the inconsolable anguish of the memorial at Yad Veshem for the 6 million European Jews whose murder will always be a living memory. And it is possible to climb that forbidding hill at Masada and feel the spirit of intransigence of the besieged zealots who chose death in glory over submission to Roman rule.

But to see only the martyrdom, or the "Masada complex," or the military strength of Israel is to be blind to the resources and the resourcefulness of 3 million Jews who have created an oasis of progress and promise in the midst of hostility and backwardness.

I think of the words of the physicist, I. I. Rabi, about the great Weizmann Institute of Science:

> The meaning of Israel is moral.
>
> He said: It is a meaning of learning, of understanding, of extending man's knowledge throughout the world.

The fulfillment of that moral meaning will be the test of Israel's next 25 years. And the help America gives in answering that challenge will also be the test of our moral strength. Let me suggest some of the immediate, practical measures we can take to fulfill our responsibility to Israel and to ourselves.

First, we must answer recent threats of economic blackmail from oil-producing Arab states with total rejection. Two weeks ago in Washington, the Saudi Arabian Petroleum Minister is reported to have advised our Government that Saudi Arabia will not significantly expand its present oil production—of which American oil companies are the exclusive purchasers—unless we change our policy of support for Israel.

In the context of our energy problems the thrust of that threat is clear. But we must reject such threats if we are ever to help promote a genuine negotiated settlement in the Middle East and insure security for all nations and justice for all people there.

Second, we cannot let down the pressure we have brought to bear on the Soviet Union over its treatment of Jews in Russia.

The Congress has made it clear that much as we all want to liberalize trade relations with Moscow, we are prepared to defer such action because of higher goals. Before making new trade arrangements with the Soviet Union, we must be satisfied that Russian Jews are free to build new lives for themselves wherever they choose to go.

The clear resolve of Congress on this issue has already brought some progress. It appears that the head tax imposed on Jewish emigrants has been modified. But we cannot be sure that all such unfair restrictions have been eliminated.

For more than 2 million Soviet Jews, Russia's ratification of the universal declaration of human rights and provisions of its own laws are too often dead letters.

Soviet leaders would be profoundly mistaken if they underestimated American feelings on this issue. It is widely shared throughout our country, and its impact on Congress is heavy.

Our position comes from our recognition that an attack on human liberty anywhere endangers freedom everywhere.

Third, while maintaining pressure on the Soviet Union, we must continue the effort to help Israel help her new citizens. Last month I attended a ceremony at the State Department releasing $33 million in funds to assist Israel in resettling Soviet Jews and putting them on the path to new and fruitful lives.

The money was authorized in the last Congress, on my motion, as a pledge that in our own relative comfort and prosperity, we will not forget those who suffer and need our help. The Congress authorized $85 million in grants for the resettlement program. It appropriated $50 million, of which $33 million has now been released for the use of voluntary agencies in Israel.

Those funds will cover the costs of bringing 22,500 immigrants from the Soviet Union to Israel.

They will insure that, on arrival, they receive the language and vocational training, the health care and social services, most of all, the housing they need to rebuild their families and their futures.

But just as the bonds you give to build Israel can never equal all the needs, so this first American government grant cannot end our commitment to the refugees. I am hopeful that new appropriations, equal at least to the money authorized but not yet formally allocated, will be approved by this Congress, and I will do what I can to that end.

As we resist Arab blackmail, insist on fair treatment of Soviet Jews and support Israel's drive to build a better life, we must, of course, also maintain our pledge to the military security of Israel. Arms sales and credits to finance them are essential to that pledge, but more broadly we must gear our diplomatic efforts in the Middle East to the end of stopping the arms race and negotiating a permanent peace.

We must assure Israel of enough power to deter renewed war. And we must work from that base toward a satisfactory solution of the tensions for which war is no solution.

For I return to the idea with which I began this address: Israel offers a hope to her neighbors and to the world that transcends the special symbolism of Israel for Jews.

In an area which was the cradle of civilization, Israel is the new example of progress. In a land that history shunted aside, Israel is the force of modernity.

The 20th century ways of Israel have a special importance in the Middle East. There, until the birth of Israel, traditionalism had too often been a synonym for stagnation. Now a new nation born of our oldest Western tradition has shown the way to progress.

More than any other developing society, Israelis have found the elusive middle way to preserve the values of the past—ties of family, of religion, of culture—and to advance the values of the present—of free inquiry, of material development, of individual fulfillment. Among all the struggling nations of the third world, Israel stands out as a model for emulation, an instructor in the art of reconciling history and the future.

To the other "people of the book"—to Israel's Arab neighbors—the lessons learned, the failures suffered, the advances scored can be the textbooks for their own development. In an atmosphere of cooperation, the contribution Israel can make to the well-being of the region would be without limit.

It may seem rash and naive to talk of the Middle East in terms of an atmosphere of cooperation, when all the evidence points to continued conflict. But 25 years ago there was not much evidence to support the vision from which Israel was born. And there is no knowing what potential for good may have been realized 25 years from now.

There is, I know, one remarkable ground for hope. One-and-a-half million Arabs now live under the Israeli flag, either in Israel or in the occupied territories. The coexistence is tense; it has flared into violence on too many occasions. But the fact is that Jews and Arabs have traveled through history on parallel paths and again are living together in a measure of cooperation.

And that measure is not diminished by the slightest hint of racial or religious prejudice. Where there is hostility in Israel for the policy of Arab governments, there is none of the searing bigotry toward individual Arabs which Jews themselves once felt in European ghettoes. There are no nasty epithets for Arabs, as there are for minorities even in America. And if there is not love, there is, at least, respect, and tolerance.

This welcome reality is the result of conscious, but not artificial policy. Knowing the bitterness of official antisemitism, the Israelis have chosen understanding instead.

From that foundation I am confident that Israel can build toward peace—a peace based on strength and resolve but also on the promise of progress which is the reason for Israel's being. America can help promote that peace through a diplomacy which never wavers in its support for Israel's basic claim to security and which actively seeks to reconcile that claim with the legitimate concerns of Israel's neighbors.

And through Israel, America can find expression for the dream that is common to all democracies—the vision of a just and open society, tolerant of her neighbors, and inspired by the opportunities to advance the life of all peoples.

We in America have sometimes fallen short of that dream. In recent months we have seemed to lose some of the generosity of spirit that shaped our greatness. We have appeared unsure of ourselves, distrustful of our leaders and uncertain of our direction in the world.

Israel, as she comes of age, also faces great problems and the danger of mis-

taking militancy for preparedness. But as it overcomes the threats she faces, and as America contributes to the realization of the promise of Israel, both nations reaffirm their shared vision.

That vision is, of course, the promise of Isaiah:

Out of Zion shall go forth the law and the word of the Lord from Jerusalem—they shall beat their swords into plowshares and their spears into pruning hooks; nation shall not lift up sword against nation, neither shall they learn war any more.

VA ADMINISTRATOR TELLS OF BENEFITS FOR VETERANS

Mr. HELMS. Mr. President, the distinguished senior Senator from South Dakota (Mr. McGOVERN) recently visited my State, and made an address on the campus of the University of North Carolina at Charlotte.

I am always pleased when my colleagues in the Senate visit North Carolina. I am confident that the young people at UNC Charlotte were pleased to meet Senator McGOVERN, and to hear his views.

One of the fine things about being a Member of this body is that Senators of diverse views and political affiliations always agree to disagree agreeably. In the instance of Senator McGOVERN's comment in my State, my only knowledge of what he said in Charlotte is based on an account in the Charlotte Observer.

I was interested, however, in the information contained in a letter to the editor of the Charlotte Observer, written by Donald E. Johnson, Administrator of the Veterans' Administration. The letter contains information which would be of interest irrespective of whether Senator McGOVERN was quoted correctly or incorrectly in the Charlotte newspaper. Therefore, Mr. President, I ask unanimous consent that Mr. Johnson's letter be printed in the RECORD.

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

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR
OF VETERANS' AFFAIRS,
Washington, D.C.

Mr. C. A. McKNIGHT,
Editor, Charlotte Observer,
Charlotte, N.C.

DEAR MR. McKNIGHT: Staff writer Bob Boyd's article on Senator George McGovern's recent "prisoners of peace" address at the University of North Carolina in Charlotte was factual and accurate. Unfortunately, the Senator was not.

Far from neglecting our Vietnam veterans, as the Senator charged, "we are now doing more than we have ever done before to help our American veterans," as President Nixon said in his March 24 statement on the debt owed our Vietnam veterans.

I am confident that Charlotte Observer readers will agree that the following facts speak for themselves; facts made possible, I need not add, by the willing support and gratitude of the American people.

MEDICAL CARE

The latest medical-care budget of $2.7 billion is 80 percent higher than the 1969 budget. More veterans are receiving health care than ever before, and they are receiving quality health care because we have augmented the staffs at VA's quality hospitals by thousands of employees in the past two years alone.

G.I. BILL ASSISTANCE

The President has twice approved increases in G.I. Bill education and training allowances, which have gone up from $130 to $220 a month for a single veteran taking full-time training. The present allowance of $1980 for a school year is nearly three times the World War II benefit for a single veteran, and gives most veterans more financial assistance than after World War II, even allowing for inflation and increased school costs. The World War II G.I. Bill paid tuition, books and supplies only up to $500, but unlike the current G.I. Bill, placed a $210 ceiling on a veteran's combined allowance and outside earnings.

In the past four years the number of veterans trained under the Vietnam G.I. Bill has tripled, going from 1.3 million at the end of Fiscal Year 1969 to 3.9 million at the end of March 1973. The growth rate has been even higher in North Carolina. At the end of Fiscal 1969, 23,150 North Carolina veterans had entered training. Today that total exceeds 81,000.

Nearly a million veterans, including more than 28,000 in North Carolina, have obtained VA-guaranteed home loans during the past four years. The value of these loans for North Carolina veterans is over half-a-billion dollars.

JOBS AND JOB TRAINING

President Nixon gave special emphasis in his March 24 statement to the need for greater assistance by the private sector as well as by government to Vietnam veterans in finding jobs and job training opportunities. But much has been done in this vital area.

A year ago the unemployment rate for veterans 20 to 29 years old was 8.3 percent. Today it is 5.9 percent, compared with 6.2 percent for nonveterans in the same age group.

Last year the President set a national goal of one million jobs and job training opportunities for Vietnam veterans. That goal was exceeded by 300,000. This year even the higher figure will be surpassed.

Last year Vietnam veterans got 25 percent of the available jobs, although they represented less than five percent of the civilian labor force.

In the past year-and-a-half, VA assistance officers have visited 138,000 business establishments throughout the country, with the result that 125,000 new job training slots for Vietnam veterans have been created.

Nearly a third-of-a-million veterans have taken VA-assisted job training under the Vietnam G.I. Bill.

As a Federal employer, VA now has 20,000 Vietnam era veterans in its work force, and is hiring an additional one thousand Vietnam veterans each month.

OUTREACH

Through one or more Outreach efforts—from first-time-in-history battlefield briefings in Vietnam, to counseling at stateside military hospitals and separation points, and by computer-generated letters, telephone, interviews at Veterans Assistance Centers, and personal visits to their homes, the Veterans Administration has contacted most of North Carolina's 137,000 Vietnam era veterans, and most of the 6.3 million Vietnam era veterans now back home, to inform them of their benefits and urge them to use the VA benefits and services to which they are entitled, particularly education and training assistance.

Now a new VA Outreach program has come to North Carolina.

Earlier this month VA began its mobile van service in the Tarheel State. During the next two months, a two-man team of specially trained VA representatives will visit some 40 North Carolina communities to bring front-door, one-stop convenient service to veterans. The mobile van team is prepared to assist these deserving Americans in applying for G.I. Bill schooling or training, home loans, hospital and medical care, disability compensation, or any of the other VA benefits and services which they have earned and need.

Service to those who served is VA's mission. I am sure you will agree that Charlotte Observer readers deserve to know how well we are carrying out this mission.

Sincerely,

DONALD E. JOHNSON,
Administrator.

RETURN "OLD IRONSIDES" TO THE PORTSMOUTH NAVAL SHIPYARD

Mr. McINTYRE. Mr. President, the closing of the Boston Naval Shipyard leaves in question a future berth for the U.S.S. *Constitution*—"Old Ironsides."

I would like to urge that the Portsmouth Naval Shipyard be considered as a future home for the *Constitution*. I have written the Secretary of the Navy urging this action.

"Old Ironsides" would feel comfortable at the Portsmouth Shipyard because twice in her historic life she was berthed at Portsmouth. At Portsmouth she would be available to the millions of tourists who visit New England each year. Her future would be assured because the President has declared that the Portsmouth Shipyard will remain open as a keystone in the Nation's Naval defense structure.

Mr. President, I am pleased that a resolution from Representative Kenneth Spaulding of Amherst, N.H., memorializing the Congress to transfer "Old Ironsides" to Portsmouth has been placed before the New Hampshire General Court. This resolution is timely, and I ask unanimous consent that it be printed in the RECORD together with my letter to the Secretary of the Navy.

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

STATE OF NEW HAMPSHIRE RESOLUTION

Whereas, the USS Constitution, also known as Old Ironsides, is an historic vessel which has long been a part of the history and culture of New England; and

Whereas, Old Ironsides is currently berthed at the Boston Naval Shipyard, which will be closed in the immediate future and would no longer be able to maintain Old Ironsides; and

Whereas, the citizens of the state of New Hampshire wish to retain Old Ironsides in the New England area where it belongs because of history and tradition; and

Whereas, the Portsmouth Naval Shipyard will continue to serve the New England area and could provide the necessary visitation and maintenance facilities for an historic vessel such as Old Ironsides;

Now Therefore Be It Resolved by the House of Representatives, the Senate concurring:

That the Legislature of the State of New Hampshire hereby expresses its desire that Old Ironsides be transferred to the Portsmouth Naval Shipyard upon the close of the Boston Naval Shipyard and be maintained there for visitors to inspect and appreciate; and

That the Legislature memorialize the New Hampshire representatives to the Congress of the United States to take immediate action to implement the above request; and

That copies of this Resolution be forwarded to the Washington office of each of

the United States Senators and Representatives from the State of New Hampshire.

JAMES E. O'NEIL, Sr.,
Speaker.

APRIL 30, 1973.

Hon. JOHN W. WARNER,
Secretary of the Navy,
Washington, D.C.

DEAR MR. SECRETARY: I understand that with the announced closing of the Boston Naval Shipyard questions have been raised about a future berth for the U.S. Frigate *Constitution.*

I would like to ask that serious consideration be given to the Portsmouth Naval Shipyard as a possible home port for "Old Ironsides."

This ship should feel at home at Portsmouth. Nearly twenty years of her life were spent there. Naval history shows that after her victories in breaking up the slave trade off the Coast of Africa between 1853 and 1855 she came to Portsmouth for rest, refitting and eventual recommissioning.

During the Civil War the *Constitution* served as a training vessel for officers in the Navy. Following that war she was decommissioned, rebuilt, provided training facilities for naval personnel and carried out various other special assignments. In 1884 she returned to Portsmouth to serve until 1897 as a receiving ship.

Because of the *Constitution's* significance in our history and the desire of people to have a chance to trod its decks and feel that history, she should be located in a place with a maximum public exposure. In my judgment, Portsmouth, New Hampshire meets the test because visitors from throughout the Nation come to New England each year, drawn by the beauties of the Maine and New Hampshire seacoasts, and such natural attractions as the White Mountain National Forest and the Presidential Mountain range, and the Autumn foliage. They come Winter and Summer as well and Portsmouth, on a main North-South interstate highway, is a popular crossroads for their travel.

I know that a decision to place the *Constitution* at Portsmouth would receive the wholehearted and enthusiastic support of the government, civic groups, service organizations, and the citizenry at large.

Because "Old Ironsides" would be coming "home," she would receive a rousing welcome and be treated as "family" for the rest of her life.

I sincerely urge your early consideration of this proposal.

Sincerely,

THOMAS J. MCINTYRE,
U.S. Senator.

TRIP TO THE MOVIES MIRRORS PLIGHT OF LIFE IN WHEELCHAIR

Mr. DOLE. Mr. President, the following article exemplifies one of the numerous reasons why Senator PERCY and I introduced legislation with respect to architectural barriers that the handicapped face. The legislation we recently introduced provides a tax incentive for the removal of architectural barriers for the handicapped. Hopefully this legislation will help to open the doors of the "public" buildings in any community to the handicapped.

Buildings do not contain signs saying "Handicapped keep out." Instead, there are thoughtless barriers, such as flights of stairs, narrow doorways, and unusable restrooms which prevent the handicapped from entering buildings, conducting their business, working, or enjoying themselves.

I ask unanimous consent that the following article "Trip to the Movies Mirrors Plight of Life in Wheelchair" by Karlyn Barker, which appeared in the April 9, 1973, issue of the Washington Post, be printed in the RECORD.

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

TRIP TO THE MOVIES MIRRORS PLIGHT OF LIFE IN WHEELCHAIR

(By Karlyn Barker)

When you are a paraplegic, like William E. Howard, 48, going out to the movies can be like running an obstacle course and finding that you are the final obstacle—at least in the eyes of the theater management.

Howard, a Rockville resident who has been confined to a wheel chair for nearly four years, and his wife, Hazel, went to the Montgomery Roth Theater in Gaithersburg on a recent Friday night.

The movie was "Judge Roy Bean," and the couple had to wait in line to buy tickets. Then, Howard said, once inside, he had to leave the theater because its manager and an usher told him his wheelchair was blocking the aisle. His money was refunded.

"I'd gone there many times before, and I always try to find a seat on the outside for my wife so that I can sit next to her in the aisle," said Howard, a food services employee at Walter Reed Army Medical Center.

It was while working at Walter Reed three years ago last fall that Howard's back was crushed beneath a heavy crate that fell from the tailgate of a truck. He suffered permanent paralysis.

Since then, the father of four has had to make many adjustments to a society that he and an estimated 102,000 paraplegics like him throughout the country find neglectful toward the needs of the handicapped. Howard said architectural barriers can be the most vexing problem.

"Whenever I'm going to a restaurant or a theater or even a store for the first time," said Howard, "I give them a call. I ask them if they have what I want, but my second question is always one asking if I can get into their store with a wheelchair."

Howard said he has "never asked if I can sit in the wheelchair" in a theater because "the problem never came up. I've been to Roth theaters and others without this ever happening.

Paul Roth, owner and president of the theater chain, said the incident "doesn't show that Roth theaters are antihandicapped. But we cannot jeopardize the entire audience to accommodate a single person."

Roth said the theater manager asked Howard to move because his presence in the aisle violated fire regulations and blocked an exit.

"We asked him to move to a different place," said Roth. "He said he'd prefer to be lifted into one of our chairs and he wanted some of our staff to do it. They're not properly trained for that."

Howard said the "different place" he was asked to move to was behind a partition in back of the last row in the theater. "How am I going to look over that from my seat?"

Sitting in a regular theater seat to comply with fire regulations against blocking exits is more of a danger, said Howard, "because without my wheelchair, I'd be stranded there. I couldn't get out."

One aspect of theater safety that the fire regulations overlook, he added, "is that if there was an emergency and I'm in my wheelchair, I'm going to be moving just like everybody else."

Commenting on the incident, Montgomery County Fire Marshal Robert Smith said the theater had obeyed the "technical intent" of the law requiring the maintenance of aisle width and the prohibition of exit obstructions.

However, said Smith, the real problem is not the regulation "but the need to provide a place for these people so that they do not have to sit in the aisle." He said theater seating for the handicapped "is a problem that has never arisen before."

Roth said some theater operators have tried in the past to leave spaces for theatergoers in wheelchairs by taking out some of the regular seats.

"But there have been some bad incidents because some others, particularly older people, come in and sit down before their eyes have adapted to the dark. They end up falling on their spines, so this has created another problem."

Barriers exist everywhere for handicapped persons, said Roth, who complained that those in wheelchairs "can't cross some streets, ride the new Metro or go up the steps to the new Washington Post building."

Initial Metro designs do not include entry ramps or elevators for the handicapped, but legislation authorizing funds for them is pending in Congress. The L Street entrance to The Washington Post provides an unobstructed path to elevators inside the building.

He said he was caught between "what's the nice thing to do and what's the practical thing to do for handicapped people." He said Howard and others in wheelchairs could attend his theaters in the future "but where they sit will depend on the particular configuration of the theater and the good judgment of the management."

Gerard McIntyre, director of the country's office of architectural services, said a 1968 state law makes it a requirement that "there are facilities to accommodate the handicapped built into public buildings, such as theaters, arenas and auditoriums."

Bruce G. Eberwein, a member of Gov. Marvin Mandel's subcommittee on the elimination of architectural barriers for the handicapped, said "all of us are barred in some way because buildings are built for esthetics rather than the good of human beings."

Eberwein, an amputee, said commercial establishments are just "rationalizing" when they refuse to provide proper facilities for the handicapped. "There's no way that a special section for those in wheelchairs couldn't be lighted and marked off in a theater" to avoid confusion by other moviegoers.

Most architects, he said, "haven't thought to make buildings more accessible for the handicapped. But people don't worry about whether a door to a home is 33 inches wide until after you or I or grandma has to be put in a wheel chair."

ISRAEL AT 25

Mr. CHURCH. Mr. President, the State of Israel is a 25-year-old fact. I salute this brave and bold nation on its silver independence anniversary; I hope and pray that one day soon Israel's neighbors will recognize its existence so that peace will also become a fact of life in the Middle East.

As the New York Times concludes in its editorial of May 7:

For its first 25 years physical survival more than enrichment of the human experience, was the challenge thrust upon modern Israel.

So far Israel has not been allowed the luxury of meeting the challenges of peaceful construction, of integrating its unique contributions with the restive humanity around. Having come this far, the people of Israel have no further need of self-justification; their only need is peace and grace to face the tasks remaining. For its 25th anniversary, peace is both the greeting and the wish of Israel: Shalom.

I ask unanimous consent that the editorial be printed here in the RECORD.

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

SHALOM

In just one generation the Jewish people have experienced the deepest despair of holocaust and the most profound exhilaration of nationhood. These are epic events of our time to be measured against the chronology of millenia. Today the state of Israel marks its 25th year of existence in the modern world. This may be but a small milestone in 4,000 years of a people's recorded history, but it is an awesome human achievement of a living generation in the face of the forces arrayed against it.

A nation of despairing refugees has become a society of proud citizens of their ancient land. The problems that pressed upon earlier generations have been solved by nationhood; this solution of nationhood is what poses the problems for the generations to come.

Unreconciled still to the presence of the Jewish state, the neighboring peoples of Palestine and the Arab Middle East take solace in what they see as a historical analogy: the medieval Crusaders' states, imposed upon the Levant by aliens from Europe, only to shrivel up and disappear. Israelis know this analogy is false. The Crusading armies never saw themselves as settlers, only military conquerers. Only men came, never more than 50,000 of them, never families intent on dropping new roots. The ties, the loyalties of the Crusaders remained in feudal Europe. The 2.5 million Jews of Israel, by contrast, have left the life of the Diaspora behind them. For them there is no other home base, no place to return.

Entering its second in the world polity, from its immediate neighbors Israel longs for acceptance as just one more nation-state among all the others of the Fertile Crescent. Yet in the world at large, to be just one more nation-state like the others would seem to fall short of the Zionist ideal. The early visionaries of Zionism—and some of their present-day descendants retain that vision—perceived the land of Israel as a beacon for all the world, a society in which the intellectual vigor of the Jewish people could flourish for the benefit of all humanity, including those on the land before the Zionist settlers arrived. This has not come about; for its first 25 years physical survival more than enrichment of the human experience, was the challenge thrust upon modern Israel.

So far Israel has not been allowed the luxury of meeting the challenges of peaceful construction, of integrating its unique contributions with the restive humanity around. Having come this far, the people of Israel have no further need of self-justification; their only need is peace and grace to face the tasks remaining. For its 25th anniversary, peace is both the greeting and the wish of Israel: Shalom.

COOK-BRECKINRIDGE BILLS ON MARYLAND TOBACCO ARE COMMENDED BY NEWSPAPER

Mr. HELMS. Mr. President, my distinguished colleague, Senator COOK, of Kentucky, recently introduced a bill (S. 1533) in this body which is designed to protect burley tobacco producers against competition from locally grown Maryland-type tobacco.

Maryland tobacco is not under price support or production control regulations, as burley is, but Maryland tobacco is often indistinguishable from burley when grown under the same conditions in Kentucky. Kentucky Congressman JOHN B. BRECKINRIDGE introduced a companion bill in the House.

The Lexington (Kentucky) Herald commented on this legislation in an April 28 editorial. This editorial presents a persuasive case on behalf of the legislation.

Mr. President, I ask unanimous consent that the Lexington Herald's editorial be printed in the RECORD.

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

BRECKINRIDGE BILL SHOULD BE PASSED

It is too soon to predict the outcome of a bill introduced in Congress by Sixth District Rep. John B. Breckinridge to protect burley tobacco against locally grown Maryland-type leaf.

However, we believe a new law is the only satisfactory answer to the dispute on which rides a big chunk of the future of Kentucky's chief cash crop.

Maryland tobacco poses unfair competition to burley farmers. The Eastern leaf is not under support prices nor is it under production controls, as is burley. Further, when grown in this state's limestone-rich soil and overfertilized, it takes on characteristics similar to burley. Even expert graders have difficulty telling the difference between Kentucky burley and Kentucky-grown Maryland-type.

The USDA has long recognized the generic closeness of the two types and they adjoin on the official tobacco-type series. Burley is Type 31 and Maryland is Type 32.

Maryland-type tobacco was grown in several areas in the eight-state burley belt during the past season, mostly under contract, at a price of $60 per hundred pounds as compared to the belt hundredweight price average of $79.23 for burley.

Burley backers have hammered on four points raised by the Maryland threat:

The cheaper leaf with similar characteristics could be substituted for burley by cigarette manufacturers.

A surplus of burley could accumulate and hamstring the price-support program.

If growers can produce a leaf used like burley for only $60 per hundred pounds, Congress may put an end to higher price supports and protected quotas for burley.

Surplus burley could begin appearing in trade channels under the guise of "Maryland" leaf, thereby hampering production controls which keep up the price of burley.

Already, Maryland tobacco seed has been distributed to contract growers in Kentucky, Virginia and Tennessee for the 1973 crop.

Without a new law to clarify the situation, there will be more hassles among growers, warehousemen and USDA officials such as occurred earlier this year.

In recent months, of 111,721 pounds put up for inspection as "Maryland" leaf, 85,505 pounds—more than 76 per cent—was determined to be burley.

A protective law for the burley industry is needed. We endorse it and back Rep. Breckinridge's efforts to get the measure through Congress.

And we hope it will be in effect before another tobacco season of uncertainty and dissension.

"DELTA QUEEN"

Mr. HARTKE. Mr. President, Americans are now realizing the value of our cultural heritage. We are striving to preserve for ourselves and our children many historically important structures and monuments.

Today, the steamboat *Delta Queen*, the last paddlewheel riverboat, remains a link to the Mark Twain era of our Nation. Congress, acting with foresight and historical sensitivity, should salvage this irreplaceable link with our past.

Mr. President, I ask unanimous consent that an article about the *Delta Queen* which appeared in the Washington Post, Sunday, April 15, 1973, be printed in the RECORD.

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

THE TURN-OF-THE-CENTURY DELIGHTS OF PADDLING DOWN "BIG MUDDY"

(By Sabin Robbins, Jr.)

"Daddy, do they really make you go through the paddlewheel if you're bad?" asked my 10-year-old son when he first boarded the Delta Queen. Robbie's questions continued at near flood tide—like the Mississippi River we traveled for five days recently from New Orleans to Memphis.

When it came time to sip the last "Huck Finn" (ginger ale liberally laced with grenadine), Robbie was a confirmed steamboater. He was an expert on shipboard nomenclature, a certified calliope player, and had even helped the pilot steer for a few Walter Mitty-ish moments. He had gained four pounds from eating too much food, played the role of a tree in an all-student production of a riverboat melodrama, and wore his Delta Queen captain's hat as if born with it.

And, of course, he had learned that the job of the paddlewheel was not for discipline but to push us along at a stately (if not speedy) seven miles an hour. In short, Robbie had a super time—just like the other 30 youngsters and 90 adults who had sampled life on the Mississippi during the annual spring cruise chartered by The National Trust for Historic Preservation.

Charter cruises usually offer extra attractions tailored to the group's interest—in our case special tours and receptions at antebellum homes, gardens, and Civil War sites at St. Francisville (La.), Natchez, Vicksburg, and Greenville (Miss.). We also had on-board classes, tours, and films for the young people conducted by a historian from Colonial Williamsburg.

Charters are on the upswing, reports Betty Blake, vice president of Greene Line Steamers, Inc., owner-operator of the Delta Queen. A dozen organizations from symphony societies to preservation groups like the National Trust run charters every year. Some use the steamboat for fund-raising events, banquets, and floating board meetings. One couple even had their wedding and reception aboard. ("Here Comes the Bride" was tooted out on the steam calliope.) The public can choose from 50 regular cruises that range from 19-day voyages between Cincinnati and New Orleans to one-day excursions out of St. Paul. Cost per day runs $30 and up, depending on accommodation.

Charter or regular, the special pleasures of steamboating remain pretty much the same. Although unlikely to be taken for the Queen Mary, the 285-foot Delta Queen dramatically dwarfs anything else that plies the Mississippi. Her bright red paddles churn up 40-foot plumes of the Big Muddy. The gold-plated whistles of the calliope echo five miles away. She may not have a swimming pool or sauna, but she does have lounges, reading room, library, two bars, gift shop, auditorium-dining room and plenty of deck space for strolling and snoozing.

Her 95 state rooms run from medium to minuscule. Getting dressed can sometimes count as early morning calisthenical. But in the end what really matters is the old-fashioned charm and ambience of America's last overnight steamboat. Far from the din of television, radios, telephones, and honking cars, you live in a world of churning water,

gleaming brass, stained glass windows, fancy woodwork and strummin' banjos.

Each of our five days was different—yet the same. Up early for a walk around the deck—11 times equals a mile. We were surprised to see that the close-by bank was wilderness—forests of willow and rolling pastures. Not a sign of houses or people. We had forgotten that this was flood plain shoreline—chancy land for any development. Out of sight behind the levee were the farms, cities, and crowded superhighways. We heard only the twitter of invisible birds, the swish of brown water spun endlessly by the paddlewheel.

Appetites whetted, it was down to the Orleans Room for juice, melon, cereals, eggs, bacon, sausage, pancakes, French toast, grits (of course!) and lots of coffee.

Classes and tours of the engine room and pilot house filled mornings for the young. Adults had their own slide lectures and films on Southern architecture, crafts, and history. Many just watched America slide by from their deck chairs. We paddled along just fast enough to get where we were going, but slow enough to savor the journey.

Each day there were shore tours of antebellum plantations and gardens ablaze with azaleas, dogwood and wisteria.

The cry "Steamboat's a comin'!" brought townsfolk to the levees just as it did a century ago. Sometimes we pulled into the main landing. Often we just tied up to a big tree along the bank. Returning from a shore excursion, we were always welcomed "home" by rollicking tunes on the calliope, played by Vic Tooker, the sternwheeler's interlocutor and master musician.

By departure time, half the town seemed to have lined the bank. Feeling like touring royalty, Robbie would wave back to envious children on shore.

After a bountiful buffet lunch, some read, wrote postcards or played cards. Others napped, watched birds, attended lectures or just chatted on the sun deck. Some flew kites over the paddlewheel. Later, passengers gathered in the Texas Lounge for a cock-tail before dinner. Afterward there were old-time movies, horse-races, or musical shows by versatile Vic Tooker.

Darkness cast a special spell aboard the Delta Queen. Lights winked from passing tugboats. Crickets chirped from the bank. One night Robbie and I sat in the pilot house with veteran Howard Tate. Reading the faint riffles of Old Man River with 42 years of practice, Tate nudged the bow closer to the shadows of the bank. When he consented to speak, his voice came out in a rusty growl.

"Mark Twain never done no piloting to amount to anything," he barked. "He never stood a pilot's watch more than six months in his life." After a studied pause, he added charitably, "But I guess he could write all right."

Although our voyage hailed straight back to the days of Twain, the Delta Queen was actually built in 1926 and designed for California rivers, not the Mississippi. Decommissioned as a World War II troop carrier in 1947, she was bought by the Greene Line of Cincinnati and revamped for Mississippi trade. Every year since then she has carried passengers some 35,000 miles, calling on 110 river towns in 17 states.

When legislators passed a Safety-at-Sea Law in 1966 to protect Americans from unsafe ocean voyages, the stern-wheeler was unexpectedly condemned because her superstructure was wood not steel. Since then, Congress has voted three times to exempt the antique riverboat. They felt she did not face the same hazards as ocean going vessels. "To knock off the Delta Queen because of a law designed for oceanliners would be like pulling down the Tower of London because it doesn't meet city fire escape regulations for public places," wrote one columnist.

In a modernization program, the owners installed more than $1 million worth of safety and fire prevention equipment.

Her current reprieve is due to expire on Nov. 1. Rep. Lenor Sullivan (D-Mo.), chairwoman of the House Merchant Marine and Fisheries Committee, introduced a bill last month calling for another five-year exemption.

At the same time, Greene Line unveiled a model of a $15.5 million riverboat scheduled for service in 1975. The new boat will carry 400 and boast such modern touches as pool, elevators, and airconditioning. But she'll still have a steam-powered paddlewheel.

"We considered propellers, gas turbines, even jet engines, but we finally decided on a paddlewheeler. It's still the most efficient, practical, and comfortable for the Mississippi," says William Muster, President of Greene Line.

Whether the old Delta Queen will be able to compete with the new boat is anyone's guess. The Greene Line thinks there are plenty of passengers for both, assuming that Congress continues to grant reprieve for the old boat. Either way, riverboat fans are assured there will be at least one overnight steamboat in their future.

Sooner than we wished, our own steamboat experience ended beneath the bluffs of Memphis. The "whish" of the paddles slowed, then stopped, to be replaced by the honk and roar of the city. As Robbie and I said goodbye to the Delta Queen and raced to the airport, we wondered whether we had entered the real world—or left it.

PROMINENT NORTH CAROLINA BROADCASTER ADDS PERSPECTIVE TO ISSUE OF MEDIA CONTROL AND BIAS

Mr. HELMS. Mr. President, as a man who has spent many years participating in the management of a fairly large television station, I am keenly aware of the distinction of the input made by network news sources and the input generated from local sources. Many TV viewers do not always make the same distinction; whatever comes on the screen of their set contributes to their overall information and opinions. As a management professional, however, I often felt frustrated in my dealings with the networks, in my efforts to make the product broadcast by our station an example of responsible journalism with balanced and objective news along with clearly labeled opinion.

The Vice President recently touched upon this problem in his speech at Harding College when he said:

You may remember that I spoke a while back about "opinion-making media." I want to be sure you understand what I mean by that term. I do not refer to the typical newspaper or radio or television station. By "opinion-making media," I mean the media of more than local impact—the large newspapers and magazines which cover the Nation and the world with their own personnel—the networks—the wire services. Through their resources, multiple ownerships and wealth, they exert a clout far in excess of any combination of small media—even a combination with hundreds of times their circulation.

It is significant that most of the cries of "repression" and "conspiracy" which are being mounted today against the Nixon Administration come from the opinion-making media. Very few editors and station owners around the country share their fears. They do not trust the Government to be fair to them, but we do not think they have yet diversified their undertaking sufficiently to fairly report the activities of Government to the American people.

The Vice President has summed up very well the dilemma which faces many of my former colleagues in the TV business. A television station is required, under the FCC's "fairness doctrine," to present a balanced coverage of controversial issues. Yet the networks have no such requirement. Nevertheless, the networks, with their superior budgets and elaborate staffs, have by far the greatest impact on national and international news. The disproportionate influence of the networks, concentrated in a relatively few hands, is largely responsible for the undermining of public confidence in the profession of journalism.

One of my former colleagues has articulated the same thought in a forceful letter which he recently sent to me. The letter was written by Charlie Crutchfield, president of Jefferson Pilot Broadcasting in Charlotte, N.C. Charlie is a fine broadcaster and a conscientious journalist. He states the problem well:

It is obvious that there is no way that hundreds of local stations can balance network programming. Many simply don't have the staffs to do this, and even the larger stations would have to assign a separate department to monitor network programming, determine what has not been balanced, and undertake the time-consuming chore of countering imbalanced presentations at the local level. This, obviously, just isn't feasible; in fact, it's impossible.

Mr. President, the local broadcaster is often ignored in all the pious platitudes about freedom of the press. We have unlimited freedom for the opinion-making media, but severely limited freedom for the local broadcasters who apparently are supposed to take what the networks give them and shut up. Yet it is the local broadcaster who is, in the end, responsible for the journalistic judgment about what goes out over his station.

Mr. President, I want to make Mr. Crutchfield's entire letter available to my colleagues, so I ask unanimous consent that it be printed in the RECORD.

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

APRIL 26, 1973.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR JESSE: As a former broadcaster, you realize better than most the problems confronting those of us in radio and television as we attempt to operate within both the letter and the spirit of the FCC's Fairness Doctrine. Commendably, most station operators make a conscientious effort to be fair—and succeed in this effort quite well.

In this area, however, we have an "Achilles Heel". I'm referring here to the fact that the networks, whose offerings make up the largest part of the broadcast day, are *not* required to operate under the Fairness Doctrine. As a result, network commentators and programs can espouse personal opinion night after night after night to national audiences numbering in the millions, and there is no requirement that the nets balance these opinions. To compound the problems, it is the *affiliates* which are held responsible for everything that goes over their air—*including* network fare. But it is obvious that there is no way that hundreds of local stations can balance network programming. Many simply

don't have the staffs to do this, and even the larger stations would have to assign a separate department to monitor network programming, determine what has not been balanced, and undertake the time-consuming chore of countering imbalanced presentations at the local level. This, obviously, just isn't feasible; in fact, it's impossible.

The answer, it seems to me, is for the networks to operate under the same rules in this regard that govern the stations. After all, a network is made up primarily of affiliated stations—plus five TV stations which each commercial network owns. In other words, the stations are required to balance editorial opinion, but the networks broadcasting over these same stations are not.

Beyond this, there is another matter which concerns me very much. People talk about news bias, slanted news, imbalanced news, advocacy journalism, etc., etc., and admittedly, there is quite a bit of this included in entirely too much of the factual news we're getting from networks and from some stations.

I don't know how one judges bias or slant or "advocacy" journalism and still protect press freedom. The way I read it though (and I would appreciate your thoughts on this), the Bill of Rights did not—and could not—stipulate that a free press must simultaneously be a fair press. But the segment of the press that ignores its commitment to fairness risks undermining the faith of its readers and viewers and, in the long run, of destroying itself as effectively and as permanently as could any censor.

Quite frankly, Jesse, I think most of the arguments, pro and con the media, relate not to bias or slant or "advocacy journalism", but to a far simpler thing to define—*fairness*. This, I interpret as meaning protection not only for the newsman, but also protection for any person or organization which inadvertently or otherwise has not been allowed (via the same facilities) to defend himself or itself against attack by some reporter who inadvertently or otherwise harms such individual or group.

In closing, let me say that I am instinctively opposed to any more government regulation than is absolutely necessary, and know that you feel the same way. However, it makes no sense whatsoever for the government to impose a Fairness Doctrine on licensees, exempt the networks from such a requirement, and then turn right around and hold individual stations responsible and accountable for what goes over the airways.

I will deeply appreciate receiving your comments on the subject.

With kindest regards.

Cordially,

CHARLIE.

TRAIN SERVICE IN COLORADO

Mr. HASKELL. Mr. President, Denver, Colo., has long served as a transportation center for the Rocky Mountain States and the western part of our country. Its strategic location has made it uniquely qualified to be the "crossroads" of the West.

The citizens of Denver are now faced with a new transportation problem which I believe deserves some special attention. Because of a decision made by the National Railroad Passenger Corporation, more commonly known as "Amtrak," Denverites must travel to Lamar or LaJunta before being able to board a passenger train.

I am not saying that the train service should be moved from Lamar and LaJunta. But it does seem strange that the nearly 1½ million people in Denver would be forced to travel to towns of less than 10,000 citizens for train service. I would hope that the Amtrak officials could find a way to serve the needs of all the citizens of Colorado and not just a few.

The Colorado State Legislature addressed this problem recently and forwarded a copy of House Joint Resolution No. 1011 to me. I ask unanimous consent that a copy of that resolution be printed in the RECORD.

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

HOUSE JOINT RESOLUTION No. 1011

Whereas, At the present time, the only rail service from the State of Colorado to Kansas City, Missouri, is available from the cities of La Junta and Lamar, each of which has a population of less than ten thousand persons; and

Whereas, Metropolitan Denver and the front-range area of this state have a population in excess of one and one-half million people, and it is necessary for them, when traveling by rail to Kansas City, Missouri, to travel by bus or automobile to either Lamar or La Junta in order to travel between this state and Kansas City, Missouri; and

Whereas, Records reveal that when there was rail service between Denver and Kansas City, Missouri, such rail service was well patronized on a year-round basis up to the date of its discontinuance by the National Railroad Passenger Corporation, more commonly known as "Amtrak"; now, therefore,

Be it Resolved by the House of Representatives of the Forty-ninth General Assembly of the State of Colorado, the Senate concurring herein:

That this General Assembly hereby urges the National Railroad Passenger Corporation to review its policies with respect to the continuance of passenger rail service and to examine the feasibility and public interest in passenger service between Denver and Kansas City, Missouri, in order to avoid the creation of voids in passenger rail service between major metropolitan areas.

Be It Further Resolved, That copies of this resolution be transmitted to the National Railroad Passenger Corporation, the Secretary of the United States Department of Transportation, and to each member of Congress from the State of Colorado.

MEDICAID PROGRAM IN NEW MEXICO

Mr. MONTOYA. Mr. President, I was pleased to read in the Washington Post this morning an article by Stuart Auerbach concerning the outstanding job being done by the State of New Mexico in the administration of its medicaid program. I commend the article to my colleagues and to the medicaid directors of the other 49 States because I believe the New Mexico experience shows what a little imagination and good administration can do.

The success of the New Mexico effort is twofold. On the one hand, millions of dollars have been saved in eliminating wasteful medical practices, some of which are described in the article. On the other hand—and this is the point most worthy of celebration—the quality of medical services provided to medicaid recipients in New Mexico has improved in absolute terms since 1971. Let me cite two examples:

Two years ago, before the Peer Review Organization concept was made operative, medicaid recipients in our State were limited to two visits per month to a physician's office. Any visits above that number were nonreimbursable. Today, there is no limit at all on these visits. A patient can go to his doctor as often as his medical needs require.

A second example concerns hospital care. Two years ago, New Mexico had a 30-day-per-year limit on hospital care. Today, because of improved administration and resultant savings, there is unlimited hospital care.

New Mexicans are receiving more and better medical care per medicaid dollar than ever before.

By now, the New Mexico experience is being held up as a model for the Nation. Large numbers of visitors are continuing to come to our State to study our system and to talk with our program administrators and participants. I invite any of my colleagues who are interested to come to New Mexico to see for themselves how the program works.

In bringing this to the attention of my colleagues, I want to give credit where credit is due. I congratulate Governor Bruce King, Director Richard W. Heim of the New Mexico Health and Social Services Department, and the physicians of New Mexico for their wisdom in recognizing the problem we were having with respect to medicaid, for their imagination in developing a workable solution to the problem, and for their determination to implement fully and successfully that solution.

I ask unanimous consent that Mr. Auerbach's article be printed in full in the RECORD:

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

MEDICAID MODEL—NEW MEXICO: SELF-REFORM BY DOCTORS

(By Stuart Auerbach)

ALBUQUERQUE, N. MEX.—Two years ago New Mexico's medicaid program was bankrupt. The legislature threatened to jail the state health and welfare director for exceeding his budget. The doctors were mad because they weren't getting paid, and the patients were mad because they weren't getting treated.

Today New Mexico's program to provide health care to the poor is on firm financial footing. It offers one of the widest ranges of services of any plan in the nation, and most of the state's doctors participate willingly.

But more important, the method used to turn New Mexico's medicaid program around is now considered organized medicine's last chance to preserve the traditional way health care is delivered before the government is forced to step in.

Indeed, New Mexico's method of peer review—using an organization of doctors to monitor the quality and cost of all medicaid services—has been embodied into federal law. By 1976, doctors throughout the nation will have to set up their own organizations to review all claims for medicaid and medicare—programs which cover one-third of all Americans. If the doctors fail to act the law says the government must step in.

"The hope of the future is for the American doctor to take the responsibility," says Dr. Charles C. Edwards, HEW assistant secretary for health.

"If he doesn't, someone else will, and that's where the government comes in."

Sen. Wallace F. Bennett (R-Utah), who

wrote the amendment mandating that doctors set up professional service review organizations (PSROs) and pushed it through Congress over the opposition of the American Medical Association, acknowledges that he used the New Mexico organization as a model.

CHANCE TO REFORM

"It's one of medicine's last chances to reform itself," says Bennett. "That's why we fought to make sure that each doctor has a chance to participate."

Nevertheless, American doctors—especially those who have had no experience with this type of review—are wary. For it is the first time that there has been a systematic effort to look over the shoulders of a doctor practicing in his office to make sure that he is treating his patients properly and not overcharging them.

"We are not telling them how to practice medicine. We just say that we will not pay for bad medical practices," says Dr. Henry E Simmons, Edward's top aide in HEW.

In New Mexico and California, where this type of review of medicaid started, doctors were found to be giving unnecessary injections, using the wrong drugs and keeping patients in hospitals longer than necessary.

New Mexico saved $1½ million in one year alone by cutting down on the unneeded injections and over-long hospitalizations.

By all accounts, it was New Mexico's doctors who took the lead in straightening out that state's medicaid mess.

"We thought it was so bad it couldn't get any worse," recalls Dr. George Boyden, who rallied the state's doctors to form the New Mexico Foundation for Medical Care and now serves as its president.

One-fifth of the state's doctors belong, and no doctor, dentist, drug store, hospital or other health care facility can get paid for treatments under medicaid unless their bills are reviewed.

The foundation was given the authority to review medicaid claims by Richard W. Heim, who took over as director of New Mexico's Health and Social Services Department two years ago to find that medicaid was the legislators' chief dislike.

Heim gave the foundation just four months to begin reviewing medicaid claims. At that point claims had not been paid by the state for two months and medicaid was running $5 million over its $19 million budget.

REVIEWING SYSTEMATIZED

New Mexico's doctors hired the Dikewood Corp., a defense-oriented computer think tank here, to develop computer programs for the reviewing and paying of medicaid claims.

The doctors drew up guidelines for claims examiners—listing recognized treatments for specific illnesses that people with no medical training could compare with the treatments listed on medicaid bills.

In reality, the doctors found that 200 diagnoses and treatments account for 80 per cent of all medical problems.

The guidelines defined what drugs should be given for specific ailments (the foundation will not pay for any medication that the Food and Drug Administration says is ineffective); do's and dont's for common diseases such as arthritis, and the tests needed to support diagnoses.

"There ought to be at least a urine test for urinary tract infection or a chest X ray to support pneumonia," says Boyden.

Dr. Donald Harrington of the San Joaquin Foundation for Medical Care in Stockton, Calif., which pioneered reviews of medical care 18 years ago, is now developing the first set of national norms for medical care.

These norms are being programmed into a computer. Currently Harrington and Celia Richards, executive claims officer in Stockton, are feeding dummy claims into the computer to see if the system works.

"We want to set up types of practice commonly used in this country," says Harrington. "The computer will remand any claims that do not meet this pattern."

Working under a federal grant, Harrington spent 2½ years conferring with leaders of clinical medicine in the country to develop these norms.

"Everyone wants it right now," he says. "But we're refusing until we get it tested."

Whether the checks are done by computer or by hand, claims examiners cannot refuse to pay a doctor's bill. They can only approve payment if the treatment follows the guidelines or refer it for further checks by reviewing doctors.

In New Mexico, more than 70 doctors, paid $25 an hour, serve as reviewing physicians. About 15 per cent of all claims get reviewed, and half of these reviewed claims are either partially or totally denied. If a doctor doesn't agree with the decision of the reviewing physician, he can appeal to a panel.

Medicaid saved $85,000 in New Mexico, reviewing doctor bills alone.

BETTER SERVICE

"We are not saving a whole lot of money," says Dr. Edward Herring, chairman of the review panel subcommittee in New Mexico. "But we think we are getting a better brand of medicine to the people."

Nevertheless, in California average medicaid costs per patient are $52 a day in the area served by the San Joaquin Foundation compared to $63 a day in Ventura County, which is similar in its socio-economic makeup.

Harrington, the San Joaquin medical director, says that cutting doctor bills doesn't save money. What does is cutting out unneeded services.

That was Herring's aim one day recently as he reviewed claims for New Mexico's foundation. A pathologist, he was looking especially hard at questioned claims for lab tests.

He found that one doctor gave every patient—no matter what the symptoms were—the same battery of tests done in his own lab. Because of that practice, all of the doctor's claims were being reviewed. "It looks like a routine to make money in the lab," says Herring. "If that's the way he treats everybody—and we can find out via the computer—we will send a reviewing doctor out to talk to him."

Meanwhile, Herring cut four tests (worth $50) from one claim and two tests from another claim. He said the tests medicaid paid for "are all we do at Presbyterian"—one of the best hospitals in the city.

TOO MANY INJECTIONS

Boyden said the first thing that became obvious from the medical reviews was that doctors were giving far too many injections. At first, 43 per cent of all medicaid office visits included injections which are more expensive (and provide more money to the doctor) than prescribing pills.

More important, said Boyden, many doctors were not even injecting the right kinds of medicine.

For example, he said, doctors still used tetracycline, an antibiotic, for strep throat even though most experts feel it does no good. Long-acting penicillin injections or pills are better.

"Tetracycline was thought in the 1950s to be good, for everything," says Boyden. "Now we know differently. If a doctor stopped reading about changes in medical practice, he's out date. But the foundation is raising the issues for him."

California reviewers also found that doctors were giving too many injections, although there the most abused drug was vitamin B–12, which many patients think will cure anything.

The San Joaquin Foundation found that one group of four doctors was giving 65 per cent of all the vitamin B–12 injections in Stockton at a cost of $6.50 a shot.

Dr. Jack Kortzeborn, a claims reviewer in Stockton, notes that some doctors believe "that evertyhing you do for a patient should be shot through their hides. We don't agree. It's more dangerous and more costly."

He questions the use of gamma globulin injections. "Like holy water and chicken soup," he says, "it sure can't hurt. But it doesn't help much either."

The New Mexico doctors also looked at the overuse of expensive hospital beds. They found a wide variation in the length of time different doctors leave patients in the hospital for the same ailment—from 7 to 16 days for a gall bladder operation and from 1 to 10 days for an appendectomy, for examples.

MIDDLE ROAD BEST

But they also found that the doctors at either extreme were in the minority; most doctors' practice fell in a narrow middle range. This range was adopted as the guidelines for hospital stays.

As a result of the guidelines, says Boyden of the New Mexico Foundation, "we are seeing a marked decrease in the length of hospital stays without any harm to the patients."

State officials estimate the average length of hospital stay has been decreased by a day—saving $500,000 a year on medicaid.

The New Mexico Foundation is now looking to eliminate unnecessary hospitalizations and operations completely by requiring preadmission certifications for all non-emergency cases.

Pennsylvania Insurance Commissioner Herbert S. Denenberg estimates that there are two million unnecessary operations each year in the country—20 per cent of all surgery—that account for about 24,000 deaths a year.

At one meeting of a preadmission panel—where neither the doctor's hospital's or patient's names are known—a panel member was surprised to find that a request for a tonsillectomy for one of his patients was denied.

Boyden quoted the doctor as saying, "My God you're right" after he had reviewed the case.

(One out of every 14 operations in the country is a tonsillectomy, and some doctors feel that many of them are unnecessary.)

Through its preadmission checks on hospitalization, the San Joaquin Foundation also has cut down on hospital use.

It does even more than make pre-admission reviews of hospitalizations; it has nurses checking on patients already in the hospital and arranging for their care after release. By finding less expensive means of treatment than a hospital—nursing homes or home care, for example—officials in Stockton estimate that this program can cut almost $1 million a year on bills run up at an average 300-bed hospital.

Aiming at high drug bills, the San Joaquin Foundation runs computer checks on doctors drug prescription habits.

According to Dr. Robert B. Talley, the foundation checks indicate that 12 percent of all prescription claims are either duplications or unneeded drugs, Projecting on the nation's $8.5 billion yearly drug bill, he estimates that patients across the country could save more than $1 billion a year if similar checks were instituted nationally.

"If the San Joaquin experience is typical, and I think San Joaquin is a typical community, the national implications are very substantial," says Talley, associate medical director of the San Joaquin Foundation.

These checks are more important than simply saving money—even though medi-

cal costs are one of the fastest rising components of the cost of living index.

They are the first steps that government and medicine have taken toward insuring a high quality of health care in the country—an area where doctors feel threatened but where there is an ever increasing amount of public pressure based on patients' complaints.

Indeed, a special HEW commission concluded that the increasing number of medical malpractice suits are due in a large part to poor care by doctors.

AMA WANTS A VOICE

The AMA, which opposed the PSRO legislation in Congress, is now trying to insure that it has a large voice in the review organization that will be springing up across the country.

An AMA survey shows that 36 state medical societies—three-fourths of them—want to be designated the PSRO for their area.

(In Washington, the District Medical Society has formed a foundation so it can be the PSRO for the city. Prince Georges and Montgomery County doctors have also formed foundations.)

OPPOSITION RISES

Other medical groups to the right of the AMA, however, are attacking the PSRO concept.

The Association of American Physicians and Surgeons says that PSRO stands for "Physicians Should Roll Over." It calls the concept "political medicine (which) is bad medicine," and is collecting money to finance lawsuits against PSROs.

"For myself," says AAPS President Dr. Robert S. Jaggard of Olwein, Iowa, "I cannot conceive of how an ethical doctor would be able to cooperate with a PSRO.

"Sooner or later he would be caught in the cross fire of PSRO insistence that medical care not exceed computerized norms and ethical doctors' insistence that they are going to give their patients the best care possible, come hell or high water."

Nevertheless, medical foundations to do peer review are spreading throughout the country. The San Joaquin Foundation is the guiding light of the foundation movement, and so many doctors visit its headquarters in Stockton that it now charges for briefings.

As a result of the new interest in foundations, Harrington now spends as much time traveling around the country as he does tending to his patients and foundation in Stockton.

He is president of the Stockton-based American Association of Foundations for Medical Care which acts as an education group.

Boyd Thompson, executive director of the association, says there are now 115 foundations in operation or about to start with a membership of 90,000 doctors.

The San Joaquin Foundation launched the movement in 1954 when the longshoremen's union in Stockton, dissatisfied with the medical care its members were receiving, negotiated with the Kaiser-Permenente pre-paid group practice plan to move in.

As a counterproposal, the Stockton doctors formed a foundation and offered to provide medical care for the union, whose members would pay a fixed fee and be able to see any doctor who belonged to the foundation.

In effect, the foundation became a prepaid group practice plan of its own. But instead of having to go to a special clinic for treatment, the longshoremen could go to any doctor who belonged to the foundation. By now, 96 per cent of the doctors in the area belong.

From the years of reviewing doctors' performances, Harrington feels that fees are not the problem in medicine; overutilization of facilities is. Moreover, he says that most doctors want to practice good medicine. A few, though, "are absolute crooks. We stop them on shots and they go into labs."

With only spotty checks on a doctor's practices, a crooked physician can always move on if a foundation makes it hot for him in the city. Harrington tells about one doctor who wanted to sue the foundation for refusing to pay him $22,000 in lab fees. When a lawyer told the doctor that he would lose the suit, Harrington continues, the doctor pulled up stakes and opened an office in the next county.

Such examples would seem to back up Sen. Bennett's contention that PSROs must be spread around the country. The Utah senator also believes that the most important value of PSROs will be their impact in educating doctors in the latest wrinkles of medicine.

In New Mexico, Dr. Wallace Nissen, a former president of the state medical society who now works for the state government as a watchdog over the foundation, says that bad doctors are often placed on review committees "to try to teach them better medicine."

But Harrington feels that sometimes just teaches bad doctors how to avoid being reviewed.

"I think the PSRO thing is going to be very traumatic for doctors and patients," says Harrington. "But if the doctors think with their minds instead of their emotions, it's going to come out all right."

Adds Kortzeborn: "It seems that review upsets some individuals who feel their professional competence has been challenged. Well, they're right. But it's better to guard our own flock than to have it guarded by the wolves."

ADMINISTRATION'S SOLUTION TO INFLATION: PROPAGANDA

Mr. HUMPHREY. Mr. President, two recent statements in the New York Times identify the ineffectiveness of the Nixon administration's economic policies.

The Nixon administration seems bent on following a "too little, too late" approach. Do nothing until it becomes unbearable. Keep exuding administration public confidence when in fact confidence is slipping. In short, the White House is trying to ride out the economic storm, just making a tiny adjustment here, tinkering with a policy there.

Economist Walter Heller has analyzed the situation this way:

Price Explosion, Profit Explosion, Cost Explosion. We are two-thirds of the way down the primrose path towards a mounting wage-price spiral.

And, the recent measures announced by the Nixon administration seem primarily designed to take the heat off in a temporary sense—no permanent long run solution to the galloping inflation that besets every consumer.

Said the New York Times editorial of May 4:

President Nixon still refuses to unleash the "stick in the closet" he promised to wield if phase III became the disaster it now clearly is. Despite an alarming upsurge in industrial prices on top of the meteoric climb already recorded in the cost of food, Mr. Nixon proposes nothing more than a minimal tightening of the restraints he weakened so prematurely last January.

And, George Meany, president of the AFL–CIO, correctly identified the Nixon administration's economic strategy:

The Nixon administration has embarked on a new propaganda campaign designed to hide the facts of soaring inflation, continued high unemployment, mounting budget deficits and a shocking drop in public confidence.

That, Mr. President, is the economic strategy of the Nixon campaign—to propagandize, to publicize; not to take the effective economic steps that might mitigate the current economic disaster.

Mr. President, I ask unanimous consent that the New York Times editorial, and the article by George Meany, be printed in the RECORD.

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

FEEBLE PRICE RESTRAINT

President Nixon still refuses to unleash the "stick in the closet" he promised to wield if Phase 3 became the disaster it now clearly is. Despite an alarming upsurge in industrial prices on top of the meteoric climb already recorded in the cost of food, Mr. Nixon proposes nothing more than a minimal tightening of the restraints he loosened so prematurely last January.

Even with the newly-reported dip in wholesale farm prices last month, the Government's wholesale price index for all farm products, processed food and feed has gone up at an annual rate of nearly 35 per cent from December through April. Any hope for a lasting leveling off in that rate of climb is dimmed by the destructive floods and rains in the farm belt, factors beyond the Administration's control—or anyone else's.

Industrial prices, generally considered a truer barometer of inflation than the volatile course of food, have started moving up at a runaway rate. In April, the wholesale prices of industrial commodities took their biggest jump since the Korean war—an advance of 1.4 per cent. Regrettably, this was no flash in the pan. Since the beginning of the year the industrial commodity index has been advancing at an annual rate of 12 per cent.

Booming domestic and international demand provided a powerful spur for these huge industrial price increases, but their climb has been accelerated by anticipatory price increases put into effect by companies which correctly interpreted the laxity of Phase 3 as an opportunity to step up profits. The one surprise is that labor has thus far not joined the parade by striking for oversized wage increases. The squeeze on wage-earners' pocketbooks as prices soar makes it dubious that this moderation on the collective bargaining front can continue much longer.

In the face of all of these inflationary trends, the Administration appears determined to continue with the "too little and too late" approach it adopted after the relative success of Phases 1 and 2. The new requirement that 600 large corporations apply thirty days in advance for approval of price increases that average more than 1.5 per cent will have little inhibiting effect on the over-all upward trend of prices. At most, it represents Phase 3.1, no real change from the January step toward a free-floating economy.

Before the nation is confronted with a further worsening of inflation and increased dangers of a boom-bust cycle, the Administration should combine firmer fiscal and monetary policies with a return to mandatory controls over a much wider area of the economy. It should also adopt administrative procedures that would convince business and labor that it seriously intends to stop inflation.

OF LIES AND FACTS

(By George Meany)

WASHINGTON—The Nixon Admnistration has embarked on a new propaganada campaign designed to hide the facts of soaring

inflation, continued high unemployment, mounting budget deficits and a shocking drop in public confidence. It is trying to convince the American public that "You're all right, Jack."

This is a 1973 version of the big lie technique. The latest example is an article on the Op-Ed Page signed by Roy Ash, director of the President's Office of Management and Budget. The following is a compliation of lies and the facts:

Lie No. 1—"By most of the usual statistics, the second Nixon Administration is off to an excellent start. . . . Unemployment is down from 6 per cent to 5.1 per cent."

Fact No. 1—It was the policies of the Nixon Administration that pushed unemployment up to 6 per cent.

In February, 1969, right after Mr. Nixon took office, there were 2.7 million Americans reported as unemployed—3.3 per cent of the labor force. In February, 1973, after four years of Nixon economic game plans, 4.4 million Americans were unemployed—5.1 per cent of the work force.

More Americans were forced to work part-time in February, 1973, than in 1969 because full-time jobs were not available. The Labor Department reports 2.3 million workers were working part-time in February, 1973, compared with 1.7 million in February 1969.

Unemployment among married men—the breadwinners—was 1.4 per cent in February, among unmarried men was 2.4 per cent.

Lie No. 2—"The Nixon policies have succeeded in reducing the rate of inflation from 6.7 per cent when the President took office to 2.9 per cent today."

[*Mr. Ash, in a letter in yesterday's Times, said that this sentence should have read: ". . . from 4.7 per cent when the President took office to 3.9 per cent today."—Editor, The Times.*]

Fact No. 2—According to Labor Department statistics for February, 1969, the Consumer Price Index showed living costs during that three-month period had risen at an annual rate of 4.5 per cent. For the same three-month period in 1972-73, the C.P.I. went up at a 6.3 per cent yearly rate.

On April 20, the Labor Department reported that living costs jumped 8 per cent in March—the second consecutive month in which consumer prices went up faster than at any time in the last 22 years.

The truth is that inflation is nearly twice as bad now as it was when Mr. Nixon took office.

Lie No. 3—"Confidence for the future is high. America's morale is also high."

Fact No. 3—On April 24, the day before Mr. Ash's article appeared, the Survey of Consumer Attitudes, conducted by the Survey Research Center of the University of Michigan's Institute for Social Research, reported:

"Rapidly rising food prices shattered consumer confidence and induced many people, with both high and low incomes, to become pessimistic. Because of the increase in living costs, the proportion of families saying that they were worse off than before and expecting to be worse off increased substantially. . . ."

Stock market prices, despite recordbreaking profits, have plummeted in recent days with experts citing a lack of investor confidence in Administration policies for the decline.

Lie No. 4—"When the President pledged to hold the Federal spending line at $250 billion in fiscal 1973 and $268 billion in fiscal 1974, he was greeted by howling cries of sour grapes by some members of Congress and in segments of the media."

Fact No. 4—The whole budget story must include deficits.

From fiscal 1970—the first full year of a Nixon budget—through the fiscal year ending this June 30, the Administration has accumulated budget deficits of $73.8 billion. This era of the greatest budget deficits since World War II is expected to continue through fiscal 1974 with an Administration forecasted deficit of $12.7 billion.

Lie No. 5—"The route that the big spenders in the Congress threaten to charge on every American's income tax. . . ."

Fact No. 5—The Federal Government could raise an additional $29 billion in tax revenues simply by closing some major tax loopholes that permit the wealthy and big corporations to avoid paying their fair share of Federal income tax. Closing these loopholes would eliminate any need for an across-the-board tax surcharge.

Expenditure of vast Federal funds never bothered Mr. Ash when they were spent on major costs overruns for Government contracts with Litton Industries when he headed that corporation.

Lie No. 6—Finally, Mr. Ash argues that the Nixon Administration is doing more for the poor, the sick, aging and the hungry than President Johnson.

Fact No. 6—It is the Nixon Administration that is cruelly dismantling social programs, terminating Federal health programs, forcing the elderly to pay more out of their own pockets for health care thus flouting the promise of Medicare, and halting starts of public housing for low and middle-income families.

The Nixon Administration opposed a 20 per cent Social Security increase, sought to slash the school lunch program for needy children, and seeks to cut Federal help to schools and libraries.

By inference and innuendo, Mr. Ash claims the 1972 election was a referendum on social programs and that these programs were repudiated. The choice in the 1972 election was between two political personalities and not a carte blanche rejection of important social programs. The President won the votes of millions of Americans who were dissatisfied with his economic and domestic policies but who were even more dissatisfied with his opponent.

Obviously, American consumers and workers can have no faith in an Administration that practices public deception. How could they?

RAZA ASSOCIATION OF SPANISH-SURNAMED AMERICANS

Mr. TUNNEY. Mr. President, I wish to take this opportunity to bring to the attention of my colleagues the recent establishment of the Raza Association of Spanish Surnamed Americans or RASSA. This organization is the first Spanish-speaking nonpartisan citizens lobby in Washington, D.C.

The efforts to organize a permanent nonpartisan ciltizens lobby to represent the interests of the Spanish-speaking community at the Nation's Capital began in 1970 by a small interim committee of Spanish-speaking representatives in the Washington, D.C., area.

Their primary concerns were that many important legislative and political issues at the national level were passing by without effective representation of the Spanish-speaking community. In addition, Federal legislation and major administrative decisions affecting the Spanish-speaking were also being determined sometimes in ignorance of the unique needs for the Spanish-surnamed.

Certainly the idea for creating such an organization was not new or original. For the last 25 years there has been a development of new leaders and organizations dedicated to serving the needs of the Spanish-speaking. But this struggle toward self-sufficiency and dignity remained primarily local in scope.

The few regional or national organizations that effectively organized themselves into viable vehicles either addressed themselves to very specific goals or organized as tax-exempt associations prohibited from engaging in political advocacy.

It was for these reasons that RASSA was formed, to fill this gap with a sustained, sophisticated organization dedicated to serving the interests of the Nation's Spanish-speaking, Spanish surnamed population.

Today, RASSA is governed by a 26-member board of trustees, representing more than 17 States, who were elected at a national convention in the summer of 1972. Presently, representatives of over 100 national and local organizations have pledged their formal support to RASSA from throughout the country.

Among the general efforts of RASSA are the following:

Concise analysis of pending legislation and administration proposals.

Up-to-date research and information on Federal programs and Federal policies.

Careful analysis of Federal policies and current national issues from respected and recognized members of the Spanish-speaking community.

The RASSA newsletter, "RASSA Lobbyist," the official monthly publication, describing activities of RASSA, Congress, Federal Government, and the activities of other members of the Spanish-speaking community.

As to specific efforts, RASSA has been involved in the following activities:

On June 26, 1972, RASSA formulated and presented a position paper to the Democratic national platform hearings held in Washington, D.C. Sections pertaining to bilingual/bicultural programing, statistical data, administration of justice, and the immigration policy were incorporated directly into the Democratic national platform.

On July 2, 1972, RASSA compiled an explanatory paper regarding what revenue sharing means and how it will affect the state and local communities.

A position paper was formulated and members of RASSA attended the platform hearings in Miami, Fla. for formal presentation at the GOP national platform hearings.

RASSA also attended the Raza Unida Party Convention in El Paso, Tex. and made a brief presentation concerning RASSA's activities and goals.

On November 10, 1972, RASSA prepared a specific memorandum regarding the defeat of the Equal Educational Opportunity Act and its effects upon the Spanish surnamed community.

On December 21, 1972, RASSA prepared a position paper regarding discrimination of Federal height requirements prohibitive towards the Spanish-surnamed individual interested in law enforcement.

In January of 1973, RASSA reviewed the major legislative activity of the 92d Congress and sent its summary to its members and concerned individuals.

Mr. President, I know that my colleagues will join me in commending RASSA for its historic accomplishments and for its dedication to a very important task.

SPRING, THE TIME FOR OMINOUS NEW THREATS

Mr. PROXMIRE. Mr. President, we are presently witnessing that yearly phenomenon, a series of revelations about Soviet prowess in the military field that coincides with the congressional review of the military budget.

This is no coincidence. It happens every year. One year it will be the ominous giant SS–9 missiles poised to strike the U.S. deterrent force and destroy our retaliatory capability. Another year it might be Soviet submarines cruising off the east coast of the United States. Or it could be the threat of a Soviet MIRV program lurking around the corner.

Not surprisingly, these timely insights come at the very moment they are needed most—when the military budget is before Congress. More classified information leaks out of the Pentagon in the spring than any other time.

This year the Air Force is pushing the Soviet "Backfire" bomber, the Navy is concentrating on the U.S.S.R. fleet, and the Army is mumbling about new Soviet ground weapons including tanks.

Now there may be some truth in these selected releases of classified information. But the fact that they come at budget time more likely means that they are not so subtle pressures on Congress.

Mr. President, I ask unanimous consent that two recent articles dealing with this subject be printed in the RECORD.

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

SPRING, DEFENSE, AND THOSE HANDY SOVIET SUBMARINES

It must be spring again. Not only are the birds and blossoms bursting out, but those pesky Soviet submarines are popping up off the Atlantic coast. They may well be cruising around there all year, but isn't it funny that the Defense Department only seems to get agitated in the spring—at budget time?

In March 1969, for instance, there was a lot of worrying out loud about a large Soviet naval force on maneuvers in the North Atlantic. When April came around the following year, the Pentagon "disclosed" that a Russian missile submarine was patrolling up and down the East Coast. Last year, the Russians even helped to dramatize the issue when, late in February, one of their submarines off Newfoundland became disabled and had to be towed home.

There's nothing like raising a patrol of enemy warships within missile firing distance of Washington, D.C., to discourage Congress from quibbling too long over the Defense Department's appropriation. That seems to be the motive behind the Washington-datelined reports last weekend, credited to "Navy sources," of at least three nuclear-missile carrying submarines based off Bermuda and Nova Scotia. And it's surely no coincidence that right now, the defense budget is facing heavy weather in Congress.

Unlike domestic spending, which the Nixon budget proposes to cut sharply, the Pentagon request contains a hefty increase for 1974—up $6.5 billion to a grand total of $85 billion—including several highly controversial programs. At a time of supposed detente, that's hard to sell. That's where the Soviet submarines come in handy.

SAC POURS ON PUBLIC RELATIONS IN FLEET BUILDUP

(By Patrick J. Sloyan)

VANDENBERG AFB, CALIFORNIA.—Faced with growing criticism of soaring weapons costs, the Strategic Air Command has opened a drive to win public support for its plan to acquire new strategic missiles and bombers.

SAC planes ferried into this oceanside base local businessmen, chamber of commerce officials, reporters and other community opinion makers who live near 10 major Air Force facilities around the United States.

Along with officials of major aerospace corporations and members of the Air Force Association, the citizens attended a three-day symposium of SAC plans.

"Whether we can afford our national security is becoming a very real day-to-day question in many quarters," said SAC commander Gen. John C. Meyer in the keynote address Wednesday.

"Yet we know that if we cannot assure our own security, we can assure nothing else."

There has been growing opposition in Congress to Nixon administration plans to buy a new fleet of SAC bombers and eventually a new fleet of tankers for the bombers.

Rockwell International of Los Angeles is attempting to overcome unanticipated cost increases and technical problems encountered in development of the B1, a supersonic replacement for the SAC B52 fleet.

"I'm concerned about the high cost of weapons," Meyer said later. "I'm also concerned about the high cost of meat and the high cost of everything."

While the public relations flights aboard Air Force planes were paid for with taxpayers dollars, the Air Force said most of the guests attending the session were paying their own motel and dining expenses.

Besides the meetings, the guests will see a launch of a Minuteman 3 intercontinental ballistic missile from the Vandenberg missile site.

The civilian guests were given details of the Minuteman that have never been made public by the Air Force before. During briefings, including films of B52 damage to North Vietnamese targets earlier this year, the Air Force disclosed that the latest missile carried three separate warheads that could strike different targets.

The number of warheads in this multiple independently targetable re-entry vehicle (MIRV) system have been withheld, for example, from the Pentagon press corps.

So far, the Pentagon wants only 500 Minuteman 3 missiles in its 1,000 rocket land-based missile force.

But Meyer said it was now time to deploy 50 more Minuteman 3s to have a complete MIRV system.

"It's necessary," Meyer said.

CONGRESSMAN ANDERSON'S ADDRESS ON THE UNITED NATIONS

Mr. HUMPHREY. Mr. President, I would like to bring to the attention of my colleagues remarks made by Congressman GLENN M. ANDERSON, Saturday, April 28, at the Southern California Council of the United Nations Association.

As we all know, the efficiency of any organization is based on its ability to achieve stated goals. The United Nations has set down goals of maintaining international peace, furthering human understanding, and settling international disputes by peaceful means. The United Nations does have the potential—I feel the only available means—of bringing us closer to world peace. I agree with Congressman ANDERSON's view that although the United Nations "may have disappointed many people, who can deny that it has played a certain role in preventing the outbreak of global war?" The U.N. presents the best means of promoting communication and understanding among nations and we must support it.

As Congressman ANDERSON states, a "recent Gallup poll indicates that the people of the United States, by an 86-percent plurality, still believe that the U.N. must be made stronger." Our people want world peace and many see this accomplished through the United Nations.

The Congressman suggests means of strengthening the U.N. by, first, "making it more visual"—allowing U.N. sessions to be broadcast to all member states; and also creating "propaganda for peace." I agree with Congressman ANDERSON that we should honor our heroes of peace as well as heroes of war. I like his idea of awarding the Congressional Medal of Honor not only for "heroic deeds in the course of armed struggle" but also to those who have contributed to the cause of peace.

Mr. President, I ask unanimous consent that Congressman ANDERSON's address entitled "The Outlook for the United Nations Today," be printed in the RECORD.

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

THE OUTLOOK FOR THE UNITED NATIONS—TODAY

(By Congressman GLENN M. ANDERSON)

The fundamental purpose of the United Nations was and is, in the words of Article 1, Section 1 of the Charter, "to maintain international peace . . . and to bring about by peaceful means . . . settlement of international disputes . . ."

Quite obviously even the most uncritical supporter of the United Nations would have to concede that this high purpose has not been totally achieved. War has raged, and still rages, somewhere on this planet almost continuously since the founding of the United Nations. The arms race has escalated to such heights that it now threatens the economies of the wealthiest and most powerful nations, as well as insuring the smaller and poorer countries remain locked in poverty. There has been a steady erosion of public support for the U.N. in almost all nations. And this fact has been translated into economic crisis, diplomatic impotence and military irrelevance.

I do not mean to present too depressing a bill. But I must agree with those who have pointed out, that it is no service to the United Nations to ignore its problems.

And yet, despite the U.N.'s well-publicized failures to achieve all that many of us had hoped it might have achieved, a recent Gallup Poll indicates that the people of the United States, by an astonishing 86% plurality, still believe that the U.N. must be made stronger. In short, the common man seems to understand the salient fact that the United Nations is indeed indispensable to the future of mankind. and that, whatever its present shortcomings, it would be a kind of madness to abandon the search for those objectives and ideals which the U.N. embodies.

We may never be able to achieve perfect justice in our courts, or for that matter, in our ordinary relationships with other human beings, but that does not mean we

should not continue to strive after the ideal of a just society.

We may never be able to eliminate bigotry or murder, but clearly we have an obligation to keep on trying.

And so it is with the search for peace.

Perhaps a time of "peace on earth, good will toward men" will always be a dream. But we abandon that dream and despair of its achievement, at the price of our own humanity.

The relevant question before us today, then, is not what is wrong with the U.N. and why hasn't it worked more perfectly. The question we must ask ourselves is, what can be done to make it more effective in the future.

Nor is it very useful to obscure the difficulties we face in noble phrases and fine rhetoric about "peace-loving mankind." For the sad fact is that if mankind were all that peace-loving, the situation of the United Nations, indeed the imperative necessity for its success, would not be quite as critical as it is.

Our task, therefore, is not to yield to an easy and facile cynicism, the superficial wisdom of so-called practical men, whose practicality consists of resigning ourselves to inevitable outbreaks of global lunacy resulting in the loss of millions of lives and the destruction of all that we have labored to build since the last such outbreak.

Nor, is it to engage in equally facile idealism rooted in how we would like men and nations to behave rather than in how in fact they do behave.

Realistically then, what factors or forces exist in the world today which tend to advance our hopes for international peace and for a strengthened United Nations, and what are the forces taking us in the opposite direction?

First of all it is clear that the single greatest barrier to the achievement of the Charter's primary objectives for the past three decades has been the struggle between and among the Great Powers—the Cold War. Clearly this conflict has entered a new and perhaps more hopeful phase. The People's Republic of China has finally taken her rightful place within the world community of nations. Diplomatic and trade relationships between the U.S. and China and between the U.S. and the Soviet Union have opened new lines of communication and mutual respect. The peoples of the largest and strongest nations on earth are no longer continually subjected to cold war rhetoric and propaganda inevitably and perhaps deliberately designed to create a psychological readiness for war.

Secondly, the success of multi-national economic arrangements such as the European common market makes it clear that 19th Century notions about absolute sovereignty and rugged individualism when practiced by countries are just as silly and obsolete as the economic practices of the 19th Century Robber Barons within our own society.

Clearly the day is approaching, if indeed it has not already arrived, when the price of absolute sovereignty for any nation will be paid for by the poverty of its people and the scarcity of the world's goods. The rise of the multi-national corporations, while obviously posing some serious ethical and political problems, particularly when these powerful companies are so unwise as to attempt to use their great resources to control the political institutions of small or poor countries, is another reflection of the same trend; a growing recognition that the nation-state is no longer a viable economic entity in the age of jet planes and global communications—that international trade, tourism, and prosperity is essential to all modern economies.

Third is the virtual explosion of travel and the growing cultural exchanges between the peoples of the world. Hatred feeds on ignorance. The latest evidence for this fact came to millions of Americans as the result of President Nixon's visit to Red China. Almost overnight we witnessed a remarkable transformation in the image of China and the Chinese people on television and in the press, and hence a similar transformation in the way most of us perceived the Chinese experiment, and the daily lives of the Chinese people. This, of course, does not mean that we favor the experiment or were or are about to embrace the people or their government. It simply means that some stupid cliches were exposed, and we saw, not 700 million coolies sweating under Mao's lash—but a huge country and a great people struggling to build a new social order after centuries of chaos and humiliation.

Knowing some of the truth about one another, seeing each other in face to face contacts, trading with one another is no guarantee against future conflict or even war. But it does provide the individual citizen with some means of defending himself against the endless barrage of governmental propaganda.

Bertrand Russell once commented that war often acted as a kind of "reality therapy" for nations. The tendency of all of us to believe that our family, our class, our nation is the best and therefore the strongest, is sometimes corrected in the process of combat with others afflicted with a similar megalomania.

But it is the fool's way to learn.

It is wiser, less expensive and less painful to learn, by watching television and reading newspapers and books, that other nations have powerful and sophisticated weapons, brave soldiers and are made up of people who love their country just as much as we do.

Thus these three factors, and doubtless there are others one could name, represent relatively new and hopeful elements in the international climate. Opposed to them are the familiar forces still pushing us toward the apocalypse; explosive population growth racing ahead of national resources, ancient enmities, and the continuing popularity of all the old, terrible phrases about "our sacred national honor" for which mankind has always been willing to pay a terrible price in blood and devastation. Above all, war remains what it has always been, the real sport of kings and all those who would be kings, man's oldest profession.

Lately, of course, statesmen have learned to be a bit more discreet about their fondness for war. In Shakespeare's plays for example, a phrase such as "the warlike Prince," was meant to invoke the admiration and favor of the audience.

Today, calling a man "warlike" is not a compliment. But we have other words, "hawkish," "tough,"—which mean much the same thing.

Thus it seems to me silly to talk about the inevitability of war just as it is silly to talk about the inevitability of peace. Given the existing state of the world, either is possible. Collectively, mankind is free to choose.

Not long ago I read a small book by Professor Remak who, I am proud to say, teaches at our great University here in California. Professor Remak's book dealt with the causes of World War I. He set out to examine the widely held notion that the outbreak of this conflict was somehow inevitable, and that had this terrible tragedy not been precipitated by a relatively minor event like the assassination of an Archduke, something else would have come along and served as an excuse for conflict. The professor's conclusion was quite to the contrary. He demonstrates that all of the Great Powers recognized the danger of a general European war, and sought to avoid it. But that they were caught up in a fatal sequence of events which led to the common ruin of the major combatants. He believes that World War I might easily not have happened. In which case we would not have had Hitler and World War II.

I think we have to act on the premise that the professor is right. That we are free not to plunge periodically into this dance of death. Two decades ago many Americans said war between the United States and Russia was inevitable.

One decade ago these same people were saying war between China and the U.S. is inevitable.

Today they say war between China and Russia is inevitable, or a war between Israel and the Arab states which will engulf the world is inevitable.

I have not agreed with them in the past and I see no reason for changing my mind now.

The United Nations may have disappointed many people in many ways, but who can deny that it has played a certain role in preventing the outbreak of global war? We have had three decades without a world war. In view of the history of the first half of this century, that is not an accomplishment that can be easily dismissed.

The spectacle of diplomats and leaders of nations angrily denouncing each other across the table at the U.N. Security Council, of Honorable men blandly lying through their teeth; of nations, large and small, ignoring the principles of justice, law and common decency and the U.N. charter itself, in pursuit of national aims and interest; this specticle is all too familiar to the peoples of the world and has led to a kind of contempt and revulsion by honest men for the so-called leaders of the world.

But we live in a time of relative virtues, and of finite morality. Perhaps it is better to watch men lie for the sake of national honor than to watch them kill for it.

What then is to be done? I can only suggest a few specific things which I believe may contribute to strengthening the forces for peace in the world and the hopes for achieving the great aims of the United Nations.

First of all I think the U.N. should be strengthened, not weakened. One way to make the U.N. more important is to make it more visible. We are on the brink of a vast proliferation of the number of television channels which are to be made available in this country and ultimately throughout the world. I think that the U.N.'s proceedings should be far more widely telecast and indeed pressure should be brought upon the member states to allow broadcasting of U.N. sessions live and uncensored in every member state with the technical facilities to do so. I believe this would strengthen the tendency of men everywhere, when their leaders call for the nation to throw the iron dice, to ask themselves, privately, "Is this war necessary?" Very, very few wars in all human history would have happened if enough people had asked that question.

Secondly, I think we should consider ways to create a more sophisticated and effective propaganda for peace. At the time of the founding of the United Nations in San Francisco, young Jack Kennedy, but recently returned from the Pacific war, remarked that the prospects for peace would remain dim until such time as nations honored peacemakers as they do warriors; when, in short, the term peace hero becomes as common as war hero is today. It is sad to acknowledge that in our own country, the term, "peacenik" is often used as a kind of insult. Until very recently, virtually all of the literature of war tended to create and reinforce the mystique of war's nobility, excitement and terrible beauty. A man's willingness to die, even for the worst of causes, was all but universally admired.

Somehow we must begin to create what Henry James aptly called, "a moral equiv-

alent of war."—A way of recognizing that the man of peace, of reason, of moderation and conciliation, is the true hero of humanity. Recently we have begun to read and to see books and films which make precisely that point. Naturally the authors and creators of such books get precious few invitations to White House dinners or Kremlin banquets. May I say that as a member of the United States Congress I propose to act on this idea by suggesting that the Congressional Medal of Honor or some similar recognition be awarded, not only for heroic deeds in the course of armed struggle, but to men and women who have made great contributions to and sacrifices for the cause of peace.

The United Nations is not yet a true parliament of man. Perhaps it will not be in our lifetime. But sooner or later this world body, or some succeeding organization, will have the power to control acts of terrorism and madness, whether committed by individuals or groups or by nations with real or imaginary grievances.

History is clear; either man will eliminate war or war with eliminate man.

And since none of us can imagine, or would even desire, a world in which people ceased to disagree with one another, some substitute for trial by combat and international anarchy simply must be found.

I believe we happen to be living in a time of transition between the anarchy of the past and the growth of international law which must emerge if there is to be a future.

Our task is to survive and to help the world to survive during this interim which right now means keeping the U.N. viable.

For whatever its shortcomings, the fact that the U.N. exists gives tangible evidence of humanity's willingness to at least profess a belief in the possibility of peace.

Should the United Nations collapse, the moral and psychological consequence would be catastrophic. And no man can predict the practical impact upon a world which, for the first time in human history, has the technical means to make the earth unlivable.

For these reasons I believe that this gathering is a useful one. For however we may abuse or ignore it, the U.N. represents our best hope of survival, and anyone who has thought about the subject for five minutes knows this to be true.

Only a short time ago, few would have believed it possible that we should be witnessing the President of the United States and the Chairman of the People's Republic of China toasting one another and pledging to work together in the cause of world peace. Miracles do happen.

I believe that such things happen, not merely because one man or one administration makes a sudden and dramatic decision. But rather they are the fruits of patient efforts by people like yourselves and your counterparts all over the world to build a foundation for international cooperation.

Everywhere in the world there are people, and their numbers are growing, who understand the simple fact that everything that makes life worth living, culture, art, economic well being, health, education, is achieved through human cooperation—usually cooperation that transcends national boundaries.

The food we share, the furnishings of the room, the ideas we share, the very words I am using now—are all the product of multinational and multi-cultural cooperation.

We are all members of a common market.

And we share a common destiny.

Understanding this fact is the price we pay for membership in another organization not confined by national boundaries, the republic of common sense.

KENT STATE—3 YEARS LATER

Mr. KENNEDY. Mr. President, 3 years ago today four young students died and others were brutally maimed for their personal pleas for peace. As yet, there has been no grand jury convened to probe the circumstances, and our Department of Justice continues to refuse the Subcommittee on Administrative Practice and Procedure the documentation necessary for congressional review of the Executive decisionmaking on this still unsettled matter.

As a tribute to these young people, I ask unanimous consent to have printed in the RECORD the following poem by David E. Engdahl as a remembrance of that tragic day and a reminder of our hope for eventual justice.

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

REMEMBERING KENT

We know of March 5, 1770,
And the symbol
The slaughter of that tragic day
Became to our fathers.
Remember May 4, 1970,
And the witness
The slaughter of that tragic day
Attests of our time.

Remember the soldiers—
Unwanted, unneeded—
Usurping power like invading foes;
Countermanding law, and improvising orders
As if civilian leaders were deposed.

Remember the people
Who at Kent, as at Boston,
Resent this intrusion of soldierly force
Into their sanctum of peace.
From this resentment the troops will soon provoke
Those scattered acts of violence
Which later they will claim as provocation
For their violent misdeeds.

They carry heavy rifles,
Loaded with deadly missiles,
Able to tear the soul from a body at three thousand yards.
Such weapons make Goliaths of the smallest men.
Against this army of Philistines
Only a handful of would-be Davids
Lob their ill-aimed stones.

The dwindled crowd dispersed,
The soldiers turn and march up a hill,
Glancing back as they march,
Falling out of formation,
Keeping in view the scattering youths they leave behind.

As if on a signal, on cresting the hill,
The vanguard of executioners
Wheel,
Retrace their last few steps,
And launch the attack against the youths they had left behind,
Now one hundred yards away.
Turning first in wonder,
Other soldiers eagerly join the fusillade.

Remember Allison—
Tall and alive—
Anticipating all of life's fullness;
Imagining all of youth's dreams.
Her offense was placing a flower in the barrel of a rifle
And whispering counsels of peace.
And shouting angry epithets against the gods of war.
Crumpled and small,
She dreams her fantasies of love and peace
No more.

Remember Jeff—
Spirited and bold—
Playing catch-the-cannister with the guardsmen's gas.
An easy target to remember
By his distinctive apparel
And his waving black flag.
His free-flowing blood is a crimson memorial
That cannot be rinsed
From the street where he lay.

Remember Sandy—
A mere passer-by
On her way to a class,
Uninvolved in events of the day;
Unsuspecting the missile that sped to its target,
Wrenching her life away.
From behind, at a distance of four hundred feet,
One long-hair looks much the same as another—
Whether boy or girl.

Remember Bill—
No radical, he;
He's ROTC,
Grooming to do his country's bidding on fields of war.
But who can tell a fellow soldier at one hundred thirty yards,
Out of uniform?
Bill need no longer remain a cadet;
The demons of war have collected his debt
Here, on the nation's home soil.

Remember also Jim and Don,
Dean, Bob, and Alan, Doug, Tom, and John,
And also Joe.
Remember Joe,
Standing near,
Well out of the main line of fire.
Incredulous,
Doubting the bullets were real,
He lifted his finger, defying the couriers of death.
They shot him twice on the spot.

These, nonetheless, were the lucky ones.
They survived.

Remember the questions the FBI asked;
Remember the answers they heard.
Despite all the efforts to cover it up,
Remember those critical words:
"Unnecessary."
"Unwarranted."
"Inexcusable."
A basis for criminal charges—
Egregious federal crimes.

What is this mocking of justice I hear?
"We only prosecute dissidents here!
Hide in the archives the proof of the crimes—
People forget with the passing of time!"

But have they a vault so large,
So secure,
That truth itself can be there entombed
Forever?
Justice and truth in the same crypt interred
Together?
Remember Kent.

Remember Kent!

Remember Kent . . .
And cry!

Cry for the nation
That turns the arms of her insolent war
Against her own children;
That rains the fury of her war-born hatred
Upon herself;
And tries to escape the shame of her madness
By turning her eyes away.

Cry tears of mourning;
Of outrage;
Of warning . . .
But cry not the tears of despair!

Cry out in voices resolved against silence,
Determined to speak for those silenced at Kent
Cry out for justice!
For peace!
For compassion!
Cry out in loud voices,
Remembering Kent!

GENOCIDE CONVENTION DOES NOT THREATEN THE RIGHTS OF U.S. CITIZENS

Mr. PROXMIRE. Mr. President, one frequent objection to the Genocide Treaty is that it clears the way for U.S. citizens to be tried in foreign courts without the rights guaranteed by the Constitution. This is not the case.

At the present time, if a foreign power holds an American citizen, there is nothing this Nation can do to prevent that power from trying him on any charge it wishes to bring, from shoplifting to espionage, even to genocide. The Genocide Convention in no way changes this situation.

What about extradition? Would the United States, if we ratified the Genocide Convention, be required to extradite an American citizen to another nation to stand trial without constitutional safeguards for an alleged crime of genocide committed within the borders of that nation? The answer is "No."

The Genocide Convention is not self-executing. Congress would have to enact the implementing legislation, and the convention expressly provides that this legislation be in accord with our own Constitution. The problem of extradition would be dealt with through the negotiation of treaties with other nations—treaties which would have to be ratified by the Senate. Without an extradition treaty dealing with genocide, we would not be required to extradite a person accused of it. We have never negotiated an extradition treaty with a nation that does not provide either our form of due legal process or what we consider to be the equivalent of it. There is some doubt as to whether we could under the Constitution, as this would be an action of the Government that would infringe on the rights of the individual.

We now have extradition treaties with more than 80 nations, none of which gives away the rights of Americans. None of these treaties includes genocide. These treaties would have to be renegotiated before extradition for geneocide became possible. The same protection of constitutional rights that we now have would still be there. The only difference between the renegotiated treaties and the ones we have now would be the addition of one more crime to the list of extraditable offenses. This is what we have been doing with air piracy.

Mr. President, the Genocide Convention is a landmark in the struggle for international recognition for human rights. The United States was founded on the principle that every human being has the right to life, liberty, and the pursuit of happiness. The Genocide Convention upholds the first of these rights, the right to life itself. For over a quarter of a century the U.S. Senate has delayed ratification of this important document. We must delay no longer. Mr. President, I urge the Senate of the United States to ratify the Genocide Convention without further hesitation.

WILLY BRANDT—MAN OF VISION

Mr. HUMPHREY. Mr. President, Chancellor Willy Brandt of the Federal Republic of Germany was in Washington last week for discussions with President Nixon and other administration officials. Chancellor Brandt's visit has taken place at an opportune moment, as the Congress begins consideration of trade and security measures which will have a great impact on American relations with Western Europe.

I believe that Chancellor Brandt has emerged as the spokesman and leader of the European half of the Atlantic Alliance. His preeminent role rests not only on his position of a leader of a great economic power, but on his ability to speak for Europeans of all nationalities.

In his role as the free world's leading democrat, Willy Brandt sees Western Europe striving to reach beyond the nationalism of days past to mold an economic and political force capable of being, in his words:

> An example of the prevailing of reason over production, the prevailing of justice over the egoism of power, and the prevailing of humanity over the sickness of intolerance.

Chancellor Brandt brings to his position of leadership among allies a keen sense of the political and economic realities of the 1970's based on years of experience. A hallmark of his career has been his willingness and his courage to stand up for democracy and progressive social policies. He has never capitulated to extremism—either in Europe, Germany, or within his own political party.

As he deals with upcoming problems of European-American trade, security, and monetary matters, Willy Brandt's chief concern is with the needs of his own people. This is as it should be and the Chancellor's dedication to a "new deal" for the German people serves as an example for all countries eager to implement progressive policies which respond to the true needs of people. In short, Chancellor Brandt brings the best of international responsibility and domestic commitment to his own country and to the German people.

Recently, the Chancellor wrote an essay for the New York Times entitled "The Old World, the New Strength," in which he states his personal philosophy about the direction of Europe, Germany's role and its relations with the United States.

As the Congress begins the process of examining trade legislation in the coming weeks and then goes on to deal with other aspects of European-American relations, it would be well to remember Willy Brandt's words:

> The identity of its interests will not estrange the integrating Europe from the United States. The Europeanization of Europe will, of course, mean that our own interests—not only economic and not only regional—will be attended to more effectively than has been possible in the past. Yet in the process of Europeanization lies also the opportunity for a new spiritual getting together.

Too often we take the new spirit of Europeanization which is so evident as an indication of rivalry and even antagonism. This need not be the case if we look to its philosophical roots in a self-awareness beyond nationalism.

Mr. President, I ask unanimous consent that Chancellor Willy Brandt's New York Times essay of April 29, 1973 be printed in the RECORD.

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

THE OLD WORLD, THE NEW STRENGTH

(By Willy Brandt)

BONN.—Everyday life in Western Europe is determined to an ever-increasing extent by the European Economic Community. In this process each step toward closer integration of the economic, social and political destinies of our nations and states is at the same time an undertaking of challenging soberness. I do not have the impression that this is sufficiently appreciated on the other side of the Atlantic.

By the way, this is no wonder, for our American friends do no lack problems of their own. Moreover, the process of European unification differs quite considerably from what the textbooks said. But let no one deceive himself: the European Community is growing beyond economic integration—slowly but surely.

We have the decision of the nine member states to see the Community's permanent shape not merely to economic and monetary union but also—and this, incidentally, on the proposal of my Government—to create a social union and thus improve and create a more even balance in the living conditions of its citizens. At the summit conference in Paris last October we said we wanted to establish the European union by the end of this decade. This means we are determined to qualify as a study in abstract architecture. We want to insure that 270-million or more West Europeans will be able to live a better and safer life together than they could in isolated nation-states.

The identity of its interests will not estrange the integrating Europe from the United States. The Europeanization of Europe will of course mean that our own interests—not only economic and not only regional—will be attended to more effectively than has been possible in the past. Yet in the process of Europeanization lies also the opportunity for a new spiritual getting together.

Indeed, some of us do not think merely in terms of our industries' production and of consumption in the big Common Market. We have introduced into our political discussions an element which is expresed by that key American phrase "quality of life." This not only includes material values but is also an appeal to us to prevent productivity for the benefit of civilization from turning into the destruction of civilization. We believe, incidentally, that the right to a better quality of life has its philosophical origin in Thomas Jefferson's "pursuit of happiness."

But it is the new democratic self-awareness of my countrymen more than the recognition of this fact which makes me feel justified in saying that the Federal Republic of Germany has become "more Western," has come nearer to fulfilling the ideals associated with the expressions "citoyen" and "citizen." And it is interesting to note that this process of "westernization" has coincided with, of all things, the opening to the East, the *Ostpolitik*. Here, there really is an internal and an external relationship, and it is not even very complicated, for every step taken by the Federal Republic of Germany toward détente and conciliation with its neighbors in the East has, at the same time, released energies for the construction of the common Europe.

The recognition and the acceptance of the realities resulting from the Second World War started by Hitler and lost by Germany was—like many an effort to meet a need—a painful act of liberation.

Before the treaties of Moscow and Warsaw, the German contributions to the quadripartite agreement on Berlin, and the treaty

normalizing our relations with the other German state, the outside world unfairly saw in every political move we took a possibility of our attempting after all to subject the tragic history of this century to a highly dubious revision. We have dispelled that illusion.

Perhaps this means we have shed the burden of our "special" destiny and have at last become what we want to: a proper European state whose citizens realize that the world is tired of being confronted from generation to generation with the vexatious and in each case differently articulated "German question." Freeing ourselves from that illusion has enabled us to become a full-fledged negotiating partner of East and West. This does not mean we have abandoned our aim of making it possible for our own people one day—if they then so want—to live together again. But this has now been embedded in the major task of all Europeans: reuniting our divided continent.

The elimination of tensions in our relations with the East is one main element of our foreign policy; the systematic and vigorous development of the European community the other. Both fit smoothly into the worldwide diplomacy of détente by which President Nixon pursues his concept of establishing world peace through a new balance between the leading powers. Mr. Kissinger rightly pointed out recently that these are not isolated steps, but a collective effort.

In the days of Konrad Adenauer it was a common saying that progress toward European unification was only possible under the pressure of an acute threat. It may have been like that in the early stages. In the meantime, we have proved that it is now different: Europe needs détente in order to make decisive progress toward its unification.

The Atlantic Alliance was also believed to be doomed to disruption if the interests of its members were not again and again forged together by dramatic crises. Today we know that our alliance is more than the sum total of the surface aspects of military needs. Reliable security also presupposes the guarantee of military equilibrium. This is illustrated by the name of the conference which is currently the subject of preliminary talks in Vienna—which, understandably, are difficult—Mutual Balanced Force Reductions.

This affects a vital common interest of the United States and Western Europe which involves a sensitive question; that is, the presence of American forces on our continent. Only recently, President Nixon convincingly argued that a weakening of the United States potential in Europe could not serve his peace strategy. To me this is unequivocal, for it is the simple and irrefutable truth. Withdrawal by the United States would threaten the substance of the negotiations.

Again, a few days ago, it was said on his behalf that he strongly opposed a unilateral withdrawal of American forces. Indeed, America's presence in Europe is also a prerequisite to the political presence of the United States at the conference table in Vienna and Helsinki. Without the United States there can be no realistic negotiations on European security and cooperation—a fact which is now also accepted by the Soviet Union.

In Helsinki—to some extent in Vienna, too—harmonious coordination between the members of the European community and the United States has stood an important test. This is further proof that the closer integration of the members of the European community does not constitute a danger to the larger trans-Atlantic partnership but consolidates it on the foundations of a new self-awareness. Europe is growing toward the task which great postwar American leaders, among others, had intended for it.

The European reality of an emancipated partnership is a new, indeed, perhaps sobering, experience, not only for the Europeans but also for America. Another feature of this new situation is that the Europeanization of Europe is not complete by a long shot. We still find it hard to speak with one voice because some national facts of special character prevent us from reaching common decision.

However, it was in fact that stormy period in March, when the latest monetary crisis gave us a hard time, which proved that the consensus within the European community, which has formed around the nucleus of Franco-German solidarity, is only a hand's breadth from becoming a reality. This situation requires the United States generously and understandingly to negotiate with the members of the European community as if the community were already the single big partner. The forthcoming negotiations on world trade and international monetary problems will require the courage to act on the basis of the reality of tomorrow. America counts on its expectations being met fairly. This is also true the other way around, of course.

It should not be difficult for us to muster that courage, for the reality of today is already encouraging. Contrary to the legend, the Common Market has promoted rather than impaired trans-Atlantic trade. American exports have increased more than to any other part of the world. Even exports of agricultural products, as the statistics show, have developed better than is frequently maintained—not to mention American investments and the profits they bring.

Cutting oneself off, no matter what kind of barrier is used, will help neither side. The question whether America will be Europe's partner or competitor is, I feel, wrong. We want to be partners. But we will have no option—under the rules of market economy and competition—than to be competitors as well. As the merchant knows, competition promotes business. Timidity is out of place.

The European community is also aware that the strength which it acquires as a result of integration also requires it to share responsibility—not only by means of its own contributions to a worldwide policy of détente, not only in preserving its security, but also in its duty to the poor nations of the Third World. We must all give serious thought to how this partnership between America and the uniting Europe—and other factors of the industrial world as well—can be established. From the White House a few days ago we heard important proposals and suggestions on this subject. It will be understood that I do not wish to enlarge on this subject immediately before my talks with President Nixon.

Europe's new self-awareness I am speaking about derives from the will to accomplish now the task in which it has failed for so long in the bonds of nationalism, in its readiness to yield to injustice and in the arrogance of its high level of civilization. That is, to be an example of the prevailing of reason over production, the prevailing of justice over the egoism of power and the prevailing of humanity over the sickness of intolerance. Any progress we achieve in these fields will also benefit our partners around the world—and above all our friends in the United States.

UPDATE ON IMPLEMENTATION OF INDIAN EDUCATION ACT

Mr. KENNEDY. Mr. President, I would like to report to my colleagues today some recent events relating to implementation of the Indian Education Act passed by Congress last year as title IV to Public Law 92-318. Last fall I placed in the CONGRESSIONAL RECORD a letter I sent to then-Commissioner of Education Sidney Marland (118 Cong. Rec. p. 26990, Aug. 7, 1972), in which I indicated the need and congressional desires for full implementation of the act during the second half of fiscal year 1973.

If there is a determination and commitment on the part of the Office of Education—commensurate with that of the congressional supporters of this legislation—to see it implemented as rapidly as possible, I feel that applications could be received and funds delivered before the end of 1972.

The Senate Committee on Appropriations included funds for implementation of the act during the second half of the fiscal year, and specified in its Report (S. Rept. 92-1297, page 25):

The Committee allowance for the Indian Education Act is intended to provide funds sufficient only for the second half of this fiscal year to get these new programs started. It is expected that the Office of Education will act expeditiously in this regard.

As passed and signed into law on October 31, 1972, the Appropriations Act contained $18 million for implementation of the Indian Education Act.

Yet the Office of Education failed to respond to these congressional mandates. Throughout the fall and winter no regulations were proposed. The names of nominees to the National Advisory Council were held up by the Secretary of Health, Education, and Welfare. Proposals for funding under the act were returned. And a request that Congress rescind the funds appropriated was included in the President's budget message.

On February 28, 1973, I wrote the Acting Commissioner of Education with specific questions relating to OE Indian education programs and to the administration's rescission request. Although my staff has inquired into the status of the reply to my letter, I am sorry to say that as of this date—over 2 months later—I have received no reply to this letter. The questions are still pertinent, and I ask unanimous consent that the letter be included in the RECORD at this point.

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

FEBRUARY 28, 1973.

Hon. JOHN OTTINA,
Acting Commissioner of Education,
U.S. Office of Education,
Washington, D.C.

DEAR MR. OTTINA: Last summer I was most pleased with the commitment made by your predecessor, Commissioner Marland, concerning implementation of title IV of Public Law 92-318, the Indian Education Act. In a lengthy discussion in my office with Senator Mondale and our staff, we reviewed some of the problems arising from administration of the title but seemed to be in agreement as to the need for high priority on Indian education in the Office of Education and the importance of OE fulfillment of the congressional mandate reflected in title IV.

I was thus most distressed when month after month passed without appointment of the National Advisory Council established by the Act. I was dismayed by the slow pace of development of regulations and guidelines for implementation of the Act. And last month I was shocked when the administration requested rescission of the funds appropriated for initial implementation of its programs.

Because of the present limbo in which title IV has been placed by the rescission request, it is imperative that Congress assess the ac-

tions to date in the Office of Education relating to that title and the bases for the rescission request. I would thus like you to provide me with the following information as soon as possible:

1) What is the present situation with regard to appointment of the National Advisory Council? Has a list of nominees been transmitted to the President? If not, where is the list now and what is the cause of the delay in transmission?

2) To what extent have regulations or guidelines been established relating to structure and administration of the provisions of title IV (including the community-participation requirement imposed on P.L. 874 funds for Indian children)? Please provide me with copies of the most recent drafts of such guidelines or regulations, noting the stage of each and whether any has been circulated for comment outside the Department.

3) The Budget Appendix suggested that title IV duplicates "existing authorities and programs." Precisely where is this duplication, and why, in the areas where there may be duplication, cannot the incremental resources made available through title IV be effectively and constructively used?

4) The figure of $80 million has been used as representing the resource commitment of OE to Indian education. Please provide a detailed analysis of the origin of this figure.

5) Finally, as to the programs other than title IV administered by OE affecting Indians, to what extent have the recommendations of the Special Subcommittee on Indian Education (November 1969 final report) and of the 1972 Office of Education Task Force on Indian Education been carried out.

I will look forward to your response to these questions and to an opportunity to explore with you personally OE's involvement in Indian education.

Sincerely,

EDWARD M. KENNEDY.

Mr. KENNEDY. In March I provided this body with an update on what was happening—and what was not happening—with the Indian Education Act (119 CONGRESSIONAL RECORD, S6157, Mar. 29, 1973). At that time I introduced a resolution requiring the President to appoint the National Advisory Council on Indian Education within 10 days of passage of the resolution.

The next day a large contingent of Indian educators and spokesmen met with HEW Secretary Weinberger and were assured that HEW was going to send the list of National Council nominees to the White House. The Secretary also indicated that if Congress did not rescind the Indian education appropriations, HEW would move toward implementation of the act. Congress, of course, has not acted on this rescission.

Since the Indian Education Act mandates action by the Commissioner of Education and the President—action which they have not yet taken—potential beneficiaries under the act have brought their complaints to the Federal courts. On January 31 of this year the Minnesota Chippewa Tribe and other tribes and Indian organizations joined to bring suit against HEW and OMB officials, and the President, to require implementation of the act. The Department of Justice, defending the action, moved immediately for dismissal of the complaint as to the President, arguing that the claim against the President for nonappointment of the National Advisory Council is barred by the separation of powers doctrine. After considering the elements of the Government's argument, Judge June Green, on April 25, denied the Government's motion for dismissal of the case as to the President. Thus the court held in this case, as other courts have held before, that even the President is not above or beyond the requirements of the duly enacted laws of the land. I ask unanimous consent that Judge Green's opinion be included in the RECORD in full.

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

[U.S. District Court for the District of Columbia]

THE MINNESOTA CHIPPEWA TRIBE, ET AL, PLAINTIFFS VS. FRANK C. CARLUCCI, ETC., ET AL, DEFENDANTS

Civil Action No. 175–73, Filed April 25, 1973. James F. Davey, Clerk.

ORDER

In this action plaintiffs seek *inter alia* to require the President of the United States to appoint members of the National Advisory Council on Indian Education pursuant to The Indian Education Act, Title IV of Pub. L. No. 92–318, 86 Stat. 334, approved by the President June 23, 1972.* In answering the complaint, the government admitted that the President is charged with duties and responsibilities under the statute in question. The answer further admitted that the President has heretofore neither made any appointments to the Council, nor delegated his power to another.

The case is before the Court on the government's "Suggestion for Dismissal of Action as to Richard M. Nixon, President of the United States". Fed. R. Civ. P. 12(h)(3) provides,

"Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action."

In determining whether the Court has jurisdiction over the subject matter, the Court is reminded that

". . . where the complaint . . . is so drawn as to seek recovery directly under the Constitution or laws of the United States, the federal court, but for two possible exceptions later noted [and not here relevant] must entertain the suit. . . . Whether the complaint states a cause of action on which relief could be granted is a question of law and just as issues of fact it must be decided after and not before the court has assumed jurisdiction over the controversy. . . ." *Bell v. Hood*, 327 U.S. 678, 681–82 (1946).

Moreover, the complaint must be construed liberally where plaintiff's assertion of subject matter jurisdiction is questioned by defendant. *Caserta* v. *Home Lines Agency, Inc.*, 154 F. Supp. 356 (S.D.N.Y. 1957), *aff'd.*, 273 F.2d 943 (2d Cir. 1959).

A review of the complaint and plaintiffs' jurisdictional statement indicates that the Court has subject matter jurisdiction and that this case may eventually be decided on the merits. Plaintiffs have cited several statutes, e.g., 28 U.S.C. §§ 1331, 1337, 1361, 1362 and 5 U.S.C. §§ 701–06, and the Court is satisfied on the question.

Since the government contends that any claim against the person of the President is barred by the separation of powers doctrine, the Court now addresses itself to this issue.

The President of the United States is not completely immune from judicial process for the sole reason that he is President. *Atlee* v. *Nixon*, 336 F.Supp. 790 (E.D. Pa. 1972), (dictum); *cited with approval in Meyers* v. *Nixon*, 339 F.Supp. 1388 (S.D.N.Y. 1972) (dictum). The Supreme Court held long ago that the judiciary has jurisdiction over the President to compel him to perform a nondiscretionary act required by law. *United States* v. *Burr*, 25 Fed. Cas. 30, No. 14,692d (C.C.A. Va. 1807) (subpoena *duces tecum* against the President held proper).

Suits against the President have generally been unsuccessful for several reasons, none of which appears present in the case *sub judice*.

The first reason is lack of standing. *E.g.*, *Mottola* v. *Nixon*, 464 F.2d 178 (9th Cir. 1972). In the case at bar, it appears plaintiffs have a personal stake and interest in the outcome of the controversy and might suffer actual injury in fact. Plaintiffs are intended beneficiaries of the Indian Education Act. The National Advisory Council clearly was intended to play a key role in administration of the Act. It appears that the implementation of the Act may be impossible or impracticable unless the Council is constituted by the President.**

The second reason suits against the President have foundered is that they relate to "executive" or "discretionary" acts. *Mississippi* v. *Johnson*, 4 Wall (71 U.S.) 475 (1866). More recently, the Supreme Court has defined a question as "political" if it involves one of the following:

". . . a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or an unusual need for unquestioning adherence to a political decision already made; or the potentiality of embarrassment from multifarious pronouncements by various departments on one question." *Baker v. Carr*, 369 U.S. 186; 217 (1962).

Based on the present record it appears that this case does not fall within the *Baker* definition, and that *Mississippi* is distinguishable. Plaintiffs do not pray that the Court determine whether Indians are recognized as tribes. They do not ask that the Court alter the special relationship between Indians and the United States. Their claim does not involve the President's role as Commander in Chief of our armed forces or as an architect of our foreign policy. They do not seek to enjoin the President from executing the law.

Plaintiffs' suit does not relate to ongoing supervisory acts which require the exercise of judgment, but to single specific "one-shot" acts, appointments to the Council. Although the President clearly has discretion to choose whom to appoint to the Council, he apparently has no discretion to decide if the Council should or should not be constituted. The Indian Education Act, § 442(a) provides that ". . . appointments [to the Council] *shall* be made by the President. . . ." (emphasis added). *See McQueary* v. *Laird*, 449 F. 2d 608, 611 (10th Cir. 1971) (mandamus will issue to require the exercise of permissible discretion.)

*Part D, § 442(a) of the Act provides, "There is hereby established the National Advisory Council on Indian Education . . . which shall consist of fifteen members who are Indians and Alaska Natives appointed by the President of the United States. Such appointments shall be made by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations, and shall represent diverse geographic areas of the country." The complaint does not refer to any lists.

**The responsibilities of the Council are described in § 442(a)–(c) of the Act.

In the third place, joinder of the President as a party defendant is generally unnecessary: a plaintiff may be afforded complete relief by suing a member of the President's Cabinet. *E.g., Youngstown Sheet & Tube Co.* v. *Sawyer,* 343 U.S. 579 (1952). In the instant case, however, it appears that plaintiffs' only remedy is to sue the President directly. Only the President is given the power to make appointments to the Council. As earlier noted, the President has neither made such appointments nor delegated his power to another. The record does not suggest any implied delegation.

For the foregoing reasons, it is by the Court, this 25th day of April 1973,

Ordered that the Suggestion for Dismissal of Action as to Richard M. Nixon, President of the United States, should be and the same hereby is denied.

JUNE L. GREEN,
U.S. District Judge.

Mr. KENNEDY. Mr. President, also in conjunction with this lawsuit, the Acting Commissioner of Education filed with the Federal court an affidavit which stated that "The Office of Education has now determined that it will promptly take all appropriate steps within its authority to implement the programs under" the Indian Education Act. He also indicated that the list of nominees for the National Advisory Council has been "forwarded to the Executive Offices of the President with a request date of May 15, 1973 for the appointment" of the Council. This represents a major commitment, and a new one, on the part of OE, and I would like this affidavit inserted here in the RECORD with unanimous consent.

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

[U.S. District Court for the District of Columbia]

THE MINNESOTA CHIPPEWA TRIBE, ET AL, PLAINTIFFS v. CASPAR W. WEINBERGER, ET AL., DEFENDANTS

Civil Action No. 175–73.

AFFIDAVIT

I, Duane J. Mattheis, being duly sworn do hereby depose and say as follows:

1. I am the Acting Commissioner of Education, U.S. Office of Education, Department of Health, Education, and Welfare, in the temporary absence of John Ottina. The duties of the Commissioner of Education include responsibility with respect to the recently enacted program under the Indian Elementary and Secondary School Assistance Act (Title III of P.L. 81–874), as added by Part A of the Indian Education Act (Title IV, § 411(a) of P.L. 92–318), and with respect to the programs authorized under parts B and C of the Indian Education Act (Title IV, Sections 421 and 431 of P.L. 92–318).

2. The Supplemental Appropriations Act, 1973 (P.L. 92–607) contained an appropriation, for fiscal year 1973, of $11,500,000 for carrying out Part A; $5,000,000 for carrying out Part B; and $500,000 for carrying out Part C of the Indian Education Act. The President's budget submission to the Congress requested a rescission of this fiscal year 1973 appropriation, and hearings were held before several committees of the Congress concerning the request for such rescission.

3. Pending Congressional action on the request for rescission of the fiscal year 1973 supplemental appropriation for the above-described programs, we have been drafting regulations for issuance in the event that Congress did not rescind the appropriation. In view of the impending close of the fiscal year without positive action by the Congress on the rescission request, the Office of Education has now determined that it will promptly take all appropriate steps within its authority to implement the programs under Parts A, B, and C of the Act.

4. To this end, the Office of Education is taking immediate steps promptly to effect publication in the *Federal Register* of proposed rules and criteria for the administration of these programs. We expect such publication to be possible by May 1. Immediate steps are also being taken to collect data necessary for the purpose of computing allocations under the program added by Part A of the Act. Application forms under these programs are being prepared and will be made available to eligible applicants. After completion and filing, the applications will be processed and approved in accordance with, and subject to, the provisions of the Act and other applicable provisions of law. Steps are also being taken to initiate the establishment, within the Office of Education, of the Office of Indian Education.

5. We have also prepared a list of nominees, furnished by Indian tribes and organizations, which have been forwarded to the Executive Offices of the President with a request date of May 15, 1973 for the appointment of the National Advisory Council on Indian education.

DUANE J. MATTHEIS.

Mr. KENNEDY. Mr. President, I should also like to mention the filing on April 10 of a second lawsuit by an Indian schoolchild and a number of Indian school districts and associations, including the Coalition of Indian Controlled School Boards, against the Acting Commissioner of Education to require implementation of the Indian Education Act. And, of course, there have been numerous telegrams, letters, and delegations dispatched to Washington urging the act's prompt implementation.

Mr. President, despite what I observed in an earlier statement to be the administration's negative, even hostile, attitude toward taking substantial steps to improve the quality of Indian education, it now appears that pressures from Congress and the continuing interest and supportive activity from the Indian community have brought about a reversal in attitude on the part of government officials. It also appears that the President may soon make his appointments to the National Advisory Council on Indian Education. I might add that if the 15th of this month passes without appointment of the National Council, I will make every effort to have my resolution passed by Congress before the month's end. Certainly Congress and American Indians are justified in running out of patience.

On May 1 the Office of Education published in the Federal Register (vol. 38, p. 10738) proposed regulations governing implementation of part A of the act. Comments from interested parties are invited and are due before May 21. HEW spokesmen are also now saying that funds appropriated for the present fiscal year will in fact be obligated before July 1.

So I am pleased to report to my colleagues, and to Indian people, that the time is drawing closer when the programs established by the Indian Education Act may become a reality.

DELAWARE STATE POLICE

Mr. BIDEN. Mr. President, the Delaware State Police are currently celebrating their 50th anniversary of service to the State of Delaware.

Recently, Mr. William P. Frank, the dean of Delaware press corps, wrote an article in the Wilmington Morning News outlining the proud history of this law enforcement organization, which I would like to share.

I request unanimous consent that the article be printed in full in the RECORD.

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

[From the Wilmington Morning News, Apr. 20, 1973]

STATE POLICE MARK GOLDEN ANNIVERSARY

(By William P. Frank)

They froze in winter, sweated in the heat of summer and risked their lives on motorcycles over dangerous roads, but they laid the foundations of the Delaware State Police tradition of loyalty to state service.

And they will be remembered, these pioneer patrolmen, tomorrow when the State Police marks the 50th anniversary of its formal organization.

The ceremonies and displays will take place at the State Police headquarters north of Dover, beginning at 11, when ground will be broken in front of the training academy for a memorial park as tribute to the 14 troopers who died in line of duty.

The formal beginning was April 28, 1923, when Gov. William D. Denney signed a bill that created what is virtually the State Police of today.

For decades legislators had been talking about creating a state police force, principally to take care of rowdyism and riots in and near Delaware towns on Saturday nights.

On Jan. 29, 1906, for example, an item appeared in the old Every Evening of Wilmington:

"A movement has been inaugurated looking toward the establishment of a state police force for Delaware to do duty in rural districts."

Nothing came of it. Delawareans seemed to be afraid of a statewide force that might invade local autonomy.

The improvement in Delaware highways, the increase of the automobile and speedsters roaring up and down the roads at a reckless 40 miles an hour prompted the General Assembly to take action.

Gov. John G. Townsend Jr., the innovator who served from 1917 to 1920, and the newly organized State Highway Commission, appealed to the attorney general about traffic hazards, but the attorney general threw the problem back into their laps.

The governor and commission acted. Charles M. Upham, chief engineer of the highway department was told to hire the state's first highway patrolman. He was Charles J. McGarigle of Wilmington. His pay was $90 a month.

Who McGarigle was, what his qualifications were, his uniform and his training are lost in State Police history, except that he eventually became "a captain of highway police" and left the service in 1922.

It is known, however, that as he patrolled the often pock-marked Philadelphia Pike he faced constant danger. His motorcycle, probably a World War I surplus was unreliable. He had no protection from the weather, not even a shack into which he could go during inclement weather.

And the law that permitted his employment forbade him from delaying vehicles more than 30 minutes.

It was soon discovered that the speeding on highways was increasing. So extra patrolmen were employed. Their beat at first ranged from Claymont only down to Dover.

Still the problem increased. So the highway commissioners undertook an experiment. They mobilized citizen-policemen who were given badges and identification cards and all the authority of the "regular patrolmen."

This didn't work out too well. In the first place, the citizen-police consisted of wealthy men such as Francis V. du Pont, John J. Raskob, Andrew Gray, Dr. Harold L. Springer, Coleman du Pont and Edmund Mitchell, powerful Republican leaders; Clement B. Hallam, managing editor of the Evening Journal; and doctors and lawyers who had political or social influence.

In the fall of 1922, newspapers began to complain that some of the citizen-highway police were themselves notorious speeders. One newspaper dubbed them "High 'Spy' Cops." Eventually, the corps of citizen-police was abolished.

But the problem still faced the state. In 1923, a bill created the State Police Department under the supervision of what was known as the State Military Board.

It provided for a superintendent at $3,000 a year; one sergeant, one corporal and 20 privates. Candidates had to be of good physical and mental constitution and had to be able to ride horses and motorcycles.

For the first time, the new State Police force could make all kinds of arrests instead of just for highway speeding. They had powers in criminal matters as well as violations of hunting laws.

A Pennsylvanian, August Ahlquist, was hired as the Baron Von Steuben for the new police force, nominally a superintendent to train the new police. For this he got $250 a month in the summer of 1923.

But the policemen were still on motorcycles and too many policemen were being injured. Two of the pioneer state policemen, John Conrad and Roger P. Elderkin, were so badly hurt in their motorcycle accidents, each lost a leg below the knee.

Elderkin was equipped with an artificial limb and he continued in the State Police until he retired after 20 years service.

In the absence of radios, patrolling police in the 1920s would check in at the post offices of towns through which they passed and had their work sheets stamped by the postmasters.

Also in the middle 1920s, flag stations were established on the patrol routes and when a policeman saw a red flag hanging outside of a store or house, he would stop. Important messages awaited him.

State Police of those years developed a system for keeping tab on habitual speeders. Police used punchers to put holes on the licenses of drivers they arrested or reprimanded. Three punch holes could mean the loss of a driver's license.

Eventually, Francis V. du Pont, a long time chairman of the state highway commission, came up with a proposition. He and his father, U.S. Sen. Coleman du Pont, benefactor of the state's highway system, offered to have special automobiles made for the State Police to be sold at cost.

There's no record whether this offer was accepted but late in the 1920s, automobiles began to replace the motorcycle.

Even in those days, there was the unmarked police car, with some attendant controversy as to whether it was exactly fair.

Police dogs, four German shepherds imported from Germany, by Francis V. duPont, were given by him to the State Police in 1925, first as mascots and later to guard what were then shacks used as police stations, and to accompany police on investigations.

The force underwent its first major overhauling in organizaton during the superintendency of Paul Haviland, a former FBI agent, in the middle 1940s. The troop formation was established and the superintendent got the rank of colonel.

Haviland became a victim of General Assembly politics however and was forced to resign in 1947. The overt issue involved whether or not the Penny Hill police station would be fully manned or operated with a skeleton force.

During prohibition years, particularly in the late 1920s and first few years of the 1930s, State Police were particularly active in trying to stem the bootleg and rum-running rackets.

However, some of the police became enmeshed in what was known as the Penny Hill Police Station liquor scandal. Confiscated liquor stored in the Penny Hill station disappeared between June and December of 1932.

As the result of an investigation, seven policemen were suspended but later reinstated.

The General Assembly got into the controversy and abortive efforts were made to have the State Police divorced from the state highway commission.

The investigation by highway and police officials continued and in April 1933, four troopers were dismissed and two reprimanded.

Stacked up against this one scandal are innumerable instances of heroism by State Police and courage in face of danger. There was the time, for example, in October, 1945, when 14 troopers faced and dispersed an angry mob of 200 in Milford who were protesting the arrest of one man by a Milford policemen.

There was Capt. Henry C. Ray who rode his motorcycle in 1924 from Wilmington at 80 miles an hour to bring medicine to a sick woman in Smyrna and thus saved her life.

And in September, 1954, not more than a half dozen State Police handled a highly explosive situation in Milford with considerable diplomacy and tact in Milford when an attempt was made to send Negro children to the white high school.

State police were finally removed from the administration of the old State Highway Department during the administration of Gov. Russell W. Peterson to become part of the Department of Public Safety with Lemuel H. Hickman as secretary. Hickman used to be a member of the highway commission.

The State Police uniformed personnel now numbers 403, with an authorized strength of 450. A bill is in the General Assembly which would increase the authorized strength to 500.

GAO REPORT: "BATTLE OF BUDGET" PROPAGANDA KIT ILLEGAL

Mr. HUMPHREY. Mr. President, as chairman of the Subcommittee on Consumer Economics of the Joint Economic Committee I requested the General Accounting Office to initiate an investigation into the Nixon administration's use of a speechmaking and public information kit, "The Battle of the Budget, 1973."

The Comptroller General has just issued his report to me and to Senator MUSKIE who made a similar request.

Two points are evident from the General Accounting Office report. First, it is the opinion of the Comptroller General that there has been a clear violation of law in the preparation and use of this kit. Said the Comptroller General:

It is clear that the kit is part of an effort to defeat the 15 pieces of legislation pending in Congress which the Administration opposes. It explains the reasons for the Administration's opposition to the legislation and includes statements that people should be urged to write their representatives in Congress. In our opinion, this use of appropriated funds violates the provisions of section 608(a) of the Act.

On the basis of this opinion, I demand that the administration cease all use of this kit, that those responsible be required to account for these illegal activities.

Mr. President, there is a second point of the Comptroller General's report that merits Senate attention. The Comptroller General notes that an initial set of the "Battle of the Budget" documents were paid for by the Federal Government and sent to Cabinet officers, agency heads, and some Under Secretaries. A second set, however, was printed by the Republican National Committee and paid for by them. These copies were given to sub-Cabinet-level Presidential appointees. Since this whole effort is purely political in violation of public law, I want to know why the administration saw fit to print and pay for half of the documents from Government funds while the Republican National Committee paid for the second distribution?

There are also some unanswered questions in the GAO report. Who ordered the distribution of this kit? What were the specific instructions given to public affairs offices by the White House Office of Communications? Was there knowledge by appropriate officials that their activities directed toward the defeat of the 15 mentioned bills were illegal?

For these reasons, Senator MUSKIE and I have taken additional steps. We have written to the Comptroller General asking that the General Accounting Office pursue its investigation in detail.

And, we have asked the Attorney General to investigate the preparation of the kit and consider appropriate legal action if the preparation, printing, and distribution of the kit constituted a violation of the criminal provisions of the United States Code.

Mr. President, I ask unanimous consent that a copy of a press release issued by Senator MUSKIE and myself, containing the preliminary report of the General Accounting Office, be printed in the RECORD.

I also ask unanimous consent that our letters to Comptroller General Staats and Attorney General Kleindienst be printed in the RECORD.

Finally, I ask unanimous consent that two articles concerning the GAO report, "GAO Says Law Broken on Speech Kit," and "Nixon Budget Battle Illegal, GAO Charges," from the Washington Post and the Washington Star-News, and an article from the New York Times be printed in the RECORD:

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

SENATORS SAY "PROPAGANDA CAMPAIGN" VIOLATES LAW

Senators Edmund S. Muskie and Hubert H. Humphrey have asked the Attorney General to launch an immediate investigation into the propaganda campaign being waged by the Administration as part of an attack on the Congress over the issue of Federal spending.

At the same time, the two Senators forwarded to the Attorney General a preliminary report of the General Accounting Office which found that the production of a propa-

ganda kit, entitled "The Battle of the Budget, 1973," was a violation of Federal law. The kit was produced by the White House.

Muskie and Humphrey also asked the Attorney General to "take appropriate action" necessary to follow up the preliminary GAO report. That report, which they released, revealed:

Since the kit is part of an effort to defeat 15 pieces of legislation pending in the Congress, "this use of appropriated funds violates the provisions of section 608(a) of the Treasury, Post Office, and General Government Appropriations Act of 1973."

An estimated 120 to 150 copies of the same kit were printed and paid for by the Republican National Committee and distributed to subcabinet level Presidential appointees.

The accounting records of the White House are not maintained in a manner which permits identification of the cost of any material or work relating specifically to the "Battle of the Budget" propaganda kit.

In releasing the report, the two Senators asked the General Accounting Office to pursue its investigation in more detail. They asked the Comptroller General—

To determine if any kits printed and paid for by the Republican National Committee were distributed to civil service employees;

To obtain the specific written instructions that accompanied the distribution of the kits;

To make a detailed estimate of the total cost to the taxpayers of preparing the kit.

"We find it outrageous that the Administration has to resort to illegal propaganda campaigns to try to discredit the Congress," the two Senators said.

"We demand that all activity involving the use of the 'Battle of the Budget' kit immediately cease."

PRELIMINARY REPORT OF THE GENERAL ACCOUNTING OFFICE—APRIL 30, 1973

This is in response to your letter of April 9, 1973, in which you requested that we conduct an examination into the use of speech-making guidelines—commonly referred to as the "Battle of the Budget" kit—being used by Federal officials. Enclosed is a complete copy of the kit which was obtained from Mr. Ken Clawson, Deputy Director of Communications for the Executive Branch.

We interviewed Mr. Clawson and Mr. Fred Fielding, Deputy Counsel to the President, on the matter. The results of our interview were as follows:

Question 1—Who prepared the kit titled "Battle of the Budget 1973"?

The "Battle of the Budget" had its origins in a TV speech made by the President during which the need to hold the line on the 1974 budget was emphasized. Following this speech Mr. John Ehrlichman, Assistant to the President for Domestic Affairs, held a press conference and discussed 15 bills under consideration by the Congress which the President intended to veto, if necessary. Fact sheets were passed out giving the administration's rationale.

Most of the substance of the fact sheets was developed by staff of the Domestic Council during preparation of the budget. Later the fact sheets became a part of the "Battle of the Budget."

Assembly of the "Battle of the Budget" was by White House staff writers.

Question 2—How many copies were produced and who received them?

There were two sets of copies prepared. The first set, estimated as numbering 30 to 50 copies, was prepared by the White House and distributed only to presidential appointees of the highest rank, such as cabinet officers, agency heads, and some undersecretaries. The second set, estimated as numbering 120 to 150 copies, was printed by the Republican National Committee and paid for by them. These copies were made available to subcabinet level presidential appointees, such as assistant secretaries, assistant administrators, and public affairs officers.

Question 3—What instructions were given on use of the "Battle of the Budget"?

The "Battle of the Budget" was discussed during routine meetings conducted by the Office of Communications with public affairs directors who were presidential appointees. The Office of Communications is responsible for coordinating and consulting on public affairs information in the executive branch.

The public affairs directors were advised by Mr. Clawson that presidential appointees should talk about the budget, where appropriate, as often as possible to get across the President's position.

Question 4—What were the costs of preparing the "Battle of the Budget" and how were they financed?

As noted earlier, we were informed that the "Battle of the Budget" kit included material developed during formulation of the budget. Inspection of the kit indicates that it is essentially a compilation, consisting largely of speech excerpts, letters, poll results, and fact sheets carrying various dates. Inasmuch as this material appears to have been originally prepared or accumulated by the White House staff for other purposes, its cost is not clearly assignable to the kit. In any event, the accounting records of the White House are not maintained in a manner which permits identification of the cost of any material or work which permits identification to the "Battle of the Budget" kit.

With respect to your question as to whether the "Battle of the Budget" kits violate 18 U.S.C. 1913, lobbying with appropriated moneys, it is our position that in view of the criminal nature of this statute, determinations as to its violation should be made by the Department of Justice. Since 18 U.S.C. 1913 contains fine and imprisonment provisions which may be enforced only through judicial criminal proceedings, it is not within our jurisdiction to determine the statute's applicability in any given circumstances.

However, there is also to be considered Section 608(a) of the Treasury, Post Office, and General Government Appropriations Act of 1973, Public Law 92-351, 86 Stat. 471, which provides that:

No part of any appropriations contained in this or any other Act, or of the funds available for expenditure by any corporation or agency, shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress.

It is clear that the kit is part of an effort to defeat the 15 pieces of legislation pending in Congress which the administration opposes. It explains the reasons for the administration's opposition to the legislation and includes statements that people should be urged to write their representatives in Congress. In our opinion, this use of appropriated funds violates the provisions of section 608 (a) of the act.

However, the action to be taken by our Office with respect to such improper use of appropriated funds is limited to recovery of the amounts improperly expended. Essentially, there is involved the cost of paper and printing and the time of personnel. While appropriated funds apparently were used in preparing the kit, it appears that the amount would be small and comingled with proper expenditures.

We hope that this report will serve your purposes.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

U.S. SENATE,
Washington, D.C., May 3, 1973.

Hon. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. STAATS: We have received your April 30 Preliminary Response to our request that the General Accounting Office undertake an investigation of the propaganda campaign, apparently directed by the White House, that the Administration has undertaken in an effort to launch an attack on Congress over the issue of Federal spending.

We look forward to receiving your final report as soon as it is completed.

In preparing your final report, it would be most helpful to us if your Office could pay particular attention to answering the following questions which were raised by your Preliminary Report:

1. To whom were the propaganda kits—entitled "The Battle of the Budget, 1973"—printed and paid for by the Republican National Committee, distributed?

2. Specifically, what written instructions accompanied the propaganda kits when they were distributed to government officials? In particular, we would like you to investigate the origin and distribution of the instructions the Department of Commerce apparently sent to its District Office officials along with the kit.

Senator Muskie forwarded a copy of those instructions to your Office on April 9. Those instructions request that District Office officials "immediately identify a minimum of two or more major forums for organizational meetings between April 6-23 at which a selected, senior departmental spokesman may deliver a basic business-oriented speech on the 'Battle of the Budget.'"

In addition, those instructions, apparently sent out by H. Phillip Hubbard, Acting Director of Field Operations at the Department of Commerce, request that the District Office officials "make arrangements to deliver such a speech yourself before a minimum of four additional groups during the same period (April 6-23) as well as handling on your own any of the major forums for which a departmental spokesman is not available."

Did other departments or agencies issue similar instructions when they distributed the propaganda kits?

3. Could you make a more detailed estimate of the cost to the taxpayers of financing this entire propaganda kit and the cost to the government of the personnel involved?

4. Should the violations of Sections 608(a) of the Treasury, Post Office, and General Government Appropriations Act of 1973 (P.L. 92-351), to which you referred in your Preliminary Report, be referred to the Department of Justice for prosecution?

We consider this investigation of the Administration's attempt to propagandize the budget issue to be of critical importance—especially in view of the hesitancy of key Administration officials to supply the Congress detailed budget information. We would appreciate receiving your final report as soon as practicable.

Thank you for your cooperation.

With best wishes.

HUBERT H. HUMPHREY.
EDMUND S. MUSKIE.

U.S. SENATE,
Washington, D.C., May 3, 1973.

Hon. RICHARD G. KLEINDIENST,
Attorney General,
Washington, D.C.

DEAR MR. ATTORNEY GENERAL: We are forwarding you a copy of the General Accounting Office's preliminary report concerning the "Battle of the Budget" propaganda kit prepared by the White House Office of Communications.

This report concludes that Section 608(a) of the Treasury, Post Office and General Government Appropriations Act of 1973 has been violated. We respectfully request that your office investigate this matter and consider appropriate legal action.

We also request that your office make a finding of fact as to whether or not the "Battle of the Budget" kits constitutes a violation of 18 USC 1913; and if a violation is found, appropriate action should be taken. The General Accounting Office made no find-

ings of fact as to the applicability of this statute since "in view of the criminal nature of this statute, determinations as to its violation should be made by the Department of Justice."

We consider this investigation to be of critical importance and we request that you give it your immediate attention.

Sincerely,

EDMUND S. MUSKIE.
HUBERT H. HUMPHREY.

NIXON BUDGET BATTLE ILLEGAL, GAO CHARGES

(By Shirley Elder)

A White House campaign to rally opposition to 15 bills pending in Congress—with information kits entitled "Battle of the Budget 1973"—violates federal law against using tax dollars for propaganda, the General Accounting Office said today.

Sens. Hubert H. Humphrey, D-Minn. and Edmund S. Muskie, D-Maine, released a preliminary GAO report today stating that the kits were prepared by Ken W. Clawson, deputy director of White House communications, and distributed to high-ranking administration officials with instructions to make speeches and write letters to get the message out to the American public.

The two senators contend that the campaign also violates the law against lobbying with appropriated funds. They referred this question to the Justice Department today and asked for an immediate investigation.

In its report, the GAO said Clawson and Fred Fielding, deputy counsel to the President, both were interviewed about the budget kits.

Clawson and Fielding traced its origin to a television speech by the President in which he emphasized the need to hold the line on spending this year. Later, 15 bills under consideration by Congress were targeted for vetoes by presidential assistant John Ehrlichman.

GAO said it is impossible to determine exactly how much it cost to prepare the kits, but they were put together with White House funds.

Two sets were prepared. The first, 30 to 50 copies, was assembled at the White House and handed out to Cabinet officers; agency heads and some undersecretaries.

The second set, estimated at 120–150 copies, was printed by the Republican National Committee and paid for by them, GAO said. These were made available to sub-cabinet level presidential appointees and public affairs officers.

"It is clear," the GAO report says, "that the kit is part of an effort to defeat the 15 pieces of legislation pending in Congress which the administration opposes."

In a joint statement, the two senators called it "outrageous" that the administration has resorted to "illegal propaganda campaigns to try to discredit the Congress. We demand that all activity involving the use of the Battle of the Budget kit immediately cease."

GAO SAYS LAW BROKEN ON SPEECH KIT

(By Mike Causey)

The General Accountng Office says the White House apparently broke the law against using federal funds to lobby on legislation when it produced and ordered agencies to use a combination speech kit, fact sheet and joke book attacking "big spenders" in Congress.

Sens. Edmund M. Muskie (D-Maine) and Hubert H. Humphrey (D-Minn.), who asked for the GAO probe, have demanded that the Justice Department get into the investigation and determine if White House aides and political appointees should be punished.

GAO said the kit, officially called "The Battle of the Budget—1973" does violate an antilobbying law because it directs bureaucrats to whip up public sentiment against members of Congress. The kit was distributed to key federal personnel early last month, and first reported here April 4.

The 147-page kits have detailed instructions for preparation of antispending speeches. Each also contains a chapter of "horror stories" on certain legislative programs, a list of antispending jokes, and a section called "Epithets to Be Used Against Congress." Purpose of the kits is to attack bills pending in Congress which Mr. Nixon opposes. The bills are called "The Far Out Fifteen" in the kits.

GAO's report to Muskie and Humphrey—the 1968 Democratic presidential ticket—said that from 30 to 50 of the closely guarded kits were originally produced at the White House and given to Cabinet officers and their top aides.

A second set of the kits—numbering between 120 and 150 copies—was printed by the Republican National Committee, "and paid for by them," GAO said. Those kits were given to top agency public relations officials, who were told to write anti-congressional speeches and articles, and arrange for audiences where they could be delivered.

GAO said that the "Battle of the Budget" had its origins "in a TV speech made by the President during which the need to hold the line on 1974 spending was emphasized."

"Following this speech, John Ehrlichman, assistant to the President for domestic affairs, held a press conference and discussed 15 bills under consideration by the Congress which the President intended to veto, if necessary." (Ehrlichman since has resigned.)

GAO says most of the data contained in the Budget speech kits was developed by the staff of the White House Domestic Council. The Washington Post has reported, however, that federal agencies were asked to research and prepare "horror stories" on some of their programs the administration wants to end.

GAO said it couldn't comment on whether the original 1913 antilobbying law had been violated by preparation and use of the kits because that statute "contains fine and imprisonment provisions which may be enforced only through judicial criminal proceedings," and it is not "within our jurisdiction to determine the statute's applicability in any given circumstances."

But the congressional agency said another general government appropriations law which bars use of appropriated funds "for publicity or propaganda purposes designed to support or defeat legislation pending before the Congress" apparently had been broken.

"It is clear," wrote Comptroller General Elmer B. Staats to Muskie and Humphrey, "that the kit is part of an effort to defeat the 15 pieces of legislation pending in Congress which the administration opposes."

While Staats said that an antilobbying act was violated, in GAO's opinion, ". . . the action to be taken with respect to such improper use of appropriated funds is limited to the recovery of the amounts improperly expended." This would amount to paper, ink and printing time of machines and personnel involved, and GAO noted that ". . . the accounting records of the White House are not maintained in a manner which permits identification of the cost of any materials or work relating specifically to the 'Battle of the Budget' kit."

Muskie and Humphrey clearly are interested in more than having the government reimbursed a few dollars for the value of the kits. They have asked Attorney General-designate Elliot L. Richardson to check on the possibility of criminal actions in the affair.

PUBLICITY KIT ON NIXON'S BUDGET IS CALLED ILLEGAL BY THE GAO

(By James M. Naughton)

WASHINGTON, May 4.—The General Accounting Office said today that a 145-page publicity campaign kit designed to rally support for President Nixon in his dispute with Congress over spending "violates the provisions" of a 1973 appropriations act.

But the accounting office, a fact-finding agency of Congress, declined to make a determination on whether the White House kit might also have been prepared in violation of a criminal law forbidding the use of Government money for lobbying purposes.

In a report to Senators Hubert H. Humphrey of Minnesota and Edmund S. Muskie of Maine, both Democrats, the accounting office said that 30 to 50 of the kits had been prepared in the White House, that they included statements that "people should be urged to write their representatives in Congress" and that they thus appeared to conflict with Section 608 (A) of the act appropriating funds for the White House.

Section 608 (A) of the Treasury, Post Office and General Government Appropriations Act specifies that "no part of any appropriations contained in this or any other act, or of the funds available for expenditure by any corporation or agency, shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress".

The White House kit, titled "Battle of the Budget, 1973," was distributed early last month to Cabinet appointees throughout the Administration. It contains background information on the President's budget positions, "one-liners" or anecdotes to be used in speeches and suggested arguments for use against 15 specific bills enacted by or pending before Congress.

In a statement issued today with the G.A.O. report, Senators Muskie and Humphrey called on the Attorney General-designate, Elliot L. Richardson, to begin an investigation of the "propaganda campaign" that they said was "part of an attack on the Congress."

"We find it outrageous," the joint statement said "that the Administration has to resort to illegal propaganda campaigns to try to discredit the Congress. We demand that all activity involving the use of the 'Battle of the Budget' kit immediately cease."

At the White House, however, Ken W. Clawson, the deputy director of communications for the executive branch, defended the kit as part of the White House "informational function."

KIT IS DEFENDED

He said that he did not believe it violated any laws or that it was departure from practices of previous Administrations.

"Not only is it proper," Mr. Clawson said, "We would be derelict in our duty if we did not make an effort to get the President's perspective on such a vital issue to the public."

According to the accounting office report, "It is clear that the kit is part of an effort to defeat the 15 pieces of legislation pending in Congress which the Administration opposes."

The report, signed by the Controller General, Elmer B. Staats, said that the accounting agency would leave to the Department of Justice any decision as to whether the kit is in violation of the Federal criminal code.

Citing a provision of the code that makes it a violation—punishable by fine or imprisonment—to lobby with Government funds, the report said that the section should be enforced "only through judicial criminal proceedings" that are not within the G.A.O. jurisdiction.

NIXON TAX PROPOSALS IGNORE SMALL BUSINESS

Mr. BIBLE. Mr. President, unfortunately, the Nixon administration tax program has nothing in it for America's 12 million small business enterprises.

As chairman of the Senate Small Business Committee, I must express my disappointment that the series of pro-

posals presented to the House Ways and Means Committee by Treasury Secretary George P. Shultz on Monday and Tuesday—April 30 and May 1, 1973—pointedly ignores the present unfairness of the tax system toward smaller firms, and the 6-year effort of both Democrats and Republicans in Congress to do something about it.

Since 1970, when the comprehensive Small Business Tax Simplification and Reform bill was first introduced, we have had the cosponsorship and support from Senators and Representatives of both political parties who understand that the present tax system disadvantages smaller firms.

The 1973 small business tax reform bill, which I introduced on March 6, has bipartisan support of about four dozen Senators and Representatives. In addition, there have been several alternative bills in past years by Senators BENNETT, TOWER and GRIFFIN, among others, offering some relief to the hard-pressed small business community that accounts for 44 percent of the jobs in the country and 37 percent of the gross national product.

In my testimony before the House Ways and Means Committee on April 17 on the 1973 version of the Bible-Evins bill (S. 1098 and H.R. 5222), I pointed out that, while most small and medium-sized manufacturing corporations pay more than 50 percent of their earnings in Federal taxes, the largest corporations as a class pay an effective rate of less than 25 percent.

Treasury Secretary Shultz made a competent presentation before the House Ways and Means Committee. But it is clear that President Nixon's tax program does nothing to relieve this discrimination in any way, or even to recognize it.

It is also well known that workers can have part of their wages withheld for over a year for taxes without payment of any interest, while other persons can postpone the payment of taxes on income for long periods of time through tax shelters. I am glad to see that the administration at least addressed this problem.

Secretary Shultz got off on the wrong foot, however, by stating that the Tax Reform Act of 1969 was a result of "(a)cting upon the President's 1969 recommendations."

To keep the record straight, I believe it was the Congress, and particularly Representative WILBUR MILLS, the distinguished chairman of the House Ways and Means Committee, who took the initiative on tax reform in 1969 and again in 1973. The recommendations of the Nixon administration, in both instances, emerged after long delays, and then have been inadequate. I feel that although there are a few steps in the right direction in the administration's 1973 message, as a whole it is unequal to the serious problems of tax unfairness and erosion of confidence on the part of wage-earners and small businessmen in a tax system which requires them to pay more than their fair share.

I will continue to do all I can to bring about meaningful tax reform and relief for new, small, local, family and independent businesses, and for the Nation's wage earners, so that our tax system can come closer to giving a fair reward for hard work and taking the risks of enterprise.

Mr. President, I have just learned of a statement made yesterday by Mr. Ray W. Sim, president of the National Small Business Association, which corroborates the points I have been making. The National Small Business Association recounts, considerable detail, the lip-service which the Nixon administration has paid to small business in the tax field and remarks correctly, I believe, that:

The pieties (and) platitudes about how great the small business community is . . . (cannot be) deposited at a bank.

I feel it is appropriate and timely that this fine statement by Mr. Sim be included in the RECORD for the information of all concerned, and I ask unanimous consent that it may be printed in the RECORD.

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

ADMINISTRATION BREAKS PROMISES TO SMALL BUSINESS COMMUNITY

WASHINGTON, D.C.—May 2, 1973—Ray W. Sim, President of the 40,000-member National Small Business Association and President of the Washington Woodworking Co., Inc. of Landover, Maryland today castigated the Administration for its *shocking betrayal of the small business community* in the Nixon tax measure presented to the House Ways and Means Committee by Treasury Secretary George P. Schultz. Mr. Sim's statement follows:

"Small Business has been once more shunted aside by the Federal Bureaucracy! On May 1, 1973 Treasury Secretary George P. Schultz presented the Administration's tax reform package to the House Ways and Means Committee. In 82 pages of prepared testimony and a total of 175 pages of testimony and explanation, the Administration has once again failed to come to grips with the importance of the Nation's 11 million small businesses to the economy and the inequities of the Tax Code forcing them to close their doors in increasing numbers. 'Benign neglect' seems once more to be the order of the day.

"The Administration's callous disregard of the small business community is a shock. In the summer of 1972, the Republican Convention included in its platform a plank specifically oriented toward small business. A direct quote from that plank is that 'Through tax incentives, encourage the start-up of more new businesses, and *work* for a tax system that more fairly applies to small business.'

"Both the current and immediate past Assistant Secretary for Tax Policy of the Treasury Department committed the Administration to support of several proposed small business tax reform provisions. In addition the Administration's bill to ease the taxation problems of small business was introduced by Senator Wallace Bennett (R-Utah)—S. 544—in the previous session of Congress. These important substantive provisions of the Administration's Small Business Taxation bill have been omitted in Secretary Schultz's statement.

"President Nixon in his Proclamation 4195 designating the week beginning May 13, 1973 as Small Business Week said that 'Nineteen out of every twenty firms are considered small business, and they provide approximately 35 million jobs, and contribute more than $420 billion to the gross national product.'

"Assuming that what Mr. Nixon said in his Small Business Week proclamation is true, why then has he and the Treasury chosen to ignore, in his tax proposals, this 95% of American commerce and industry.

"There is no way that the small business man can deposit at a bank the mouthings, the pieties, and the platitudes about how great the small business community is. What's needed more than anything else is a facing up to the issue by the Administration that the small business community is getting the dirty end of the stick in the application of the Federal Tax Code. The Congress seems considerably more attuned to this pressing problem than the Administration. One-fourth of the Senate is sponsoring small business tax reform legislation. The House Ways and Means Committee, the Senate and House Small Business Committees are all knowledgeable as to the need for reform and updating of the Code in this age of giantism where the big get bigger and the small get smaller.

"National associations are joining in this battle to bring about change for the neglected sector of our economy—small business. This government has enacted no major change in the Tax Code with respect to small business in 15 years. A representative list of the national associations representing more than 250,000 small business men fighting for small business tax reform is the following:

American Association of Nurserymen, Inc.
Associated General Contractors of America.
Industrial Fasteners Institute.
Menswear Retailers of America.
National Association of Black Manufacturers.
National Association of Small Business Investment Companies.
National Business League.
National Concrete and Masonry Association.
National Home Furnishings Association.
National Insulation Contractors Association.
National Office Products Association.
National Parking Association.
National Patent Council.
National Retail Hardware Association.
National Small Business Association.
National Society of Public Accountants.
Screen Printing Association International.
Tobacconists' Association of America.

"The Administration has broken faith with small business. The Secretary's failure to include any small business tax reform proposals shows an abhorrent lack of interest. How long must the small business community, the very backbone of our economy, continue to give, and give, and give, without getting any help in return?"

NATIONAL EMERGENCY

Mr. CHURCH. Mr. President, the Special Committee on the Termination of the National Emergency, which Senator MATHIAS and I have the honor to co-chair, is investigating Executive emergency powers. An initial discovery by the special committee is that the United States has been in a state of national emergency since 1933, from which a plethora of emergency statutes, Executive orders, administrative rules and regulations have flowed to the point where the executive branch has the matrix to conduct Government without checks and balances. As the New York Times editorialized about the existence of emergency laws in its lead editorial of April 19, 1973:

Emergency powers are an incredible anomaly in the Constitutional structure of checks and balances. That anomaly should be set right.

I ask unanimous consent that the New York Times editorial of April 19 be printed here in the RECORD.

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

NATIONAL EMERGENCY

The United States has been in a state of national emergency since 1933. This is not a flippant statement, but a matter of law discovered—to the astonishment of members of Congress as well as many in the executive and judiciary branches—by a special Senate committee investigating the powers of the Presidency.

This state of emergency was declared by President Roosevelt on March 9, 1933, to enable him to enforce his bank holiday and assert Presidential control over the economic life of the nation. The emergency of the Great Depression was never declared at an end, even though new states of emergency have been proclaimed by successive Presidents to confront other crises, including the Korean war. The latest came in mid-August, 1971, when President Nixon proclaimed a national emergency giving him special powers to manage American participation in international monetary moves.

Emergency is a very special state of affairs, and there is, of course, an element of historical fantasy in the Senate study. But there is also an astonishing lapse of constitutional process, for over the years no less than 580 separate sections of the United States Code have been piled up to delegate extraordinary powers to the President any time he wishes to declare an emergency.

These include the right to dispatch American armed forces to any country of the world that he chooses to, the authority to regulate all civilian activity in any part of this country—or for that matter the whole country—that he decides to designate a military area. There are no restrictions on the President's ability to declare an emergency for any reason and duration. Once it is declared, neither Congress nor the courts can serve as check to any of the statutory emergency powers.

Under the bipartisan co-chairmanship of Senators Church of Idaho and Mathias of Maryland, the committee is trying to compile a basic list of Presidential emergency powers, something never done before across the whole Government. Then the Senators intend to propose ways to restore constitutional accountability while leaving sufficient flexibility for genuine emergencies.

Both the Senators and the Nixon Administration are rightly conducting this study in a nonpartisan spirit, wisely removed from the immediate struggle over Presidential authority. The emergency powers are an incredible anomaly in the constitutional structure of checks and balances. That anomaly should be set right.

THE WATERGATE AND THE PRESIDENCY

Mr. HUMPHREY. Mr. President, I was recently asked by the Washington Post to reflect on the implications of Watergate since this issue is of great importance to all Americans.

Because of the wide effect that this issue may have on government and the political process, I ask unanimous consent that my article, which appeared in the Washington Post on May 6, 1973, be printed in the RECORD.

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

THE THREAT TO THE PRESIDENCY

(By HUBERT H. HUMPHREY)

As Watergate unfolds, many thoughts rush forward. As a man of politics, I feel a deep sense of loss. A shadow of doubt and distrust has been cast over the entire political process.

As a man of government, I realize that the task of maintaining confidence and public trust in the fragile institutions of our democratic system has been greatly impaired.

As an American, I am appalled. It will be difficult for us to say that our country is a reservoir of hope and faith in the midst of cynicism and despair.

Like all Americans, I ask myself time and time again: How did it happen? Blind loyalty, selfishness and deceit are certainly the basic ingredients of the drama. But there is more. The essential morality of leadership which demands that those who lead be aware of the limits of their own power has been violated.

The basis for such violation originates at the philosophical heart of an administration which has been aggressive in demanding our loyalty and trust for the past five years. There have been few times in the history of this nation when a small group of men wielding such tremendous power were so aloof, so remote from the people, and so often contemptuous of institutions of government and the recognized norms of the political process.

Those in power have interpreted their electoral mandates as relieving them of any responsibility to respond to people's needs. The climate of "we know best" has been so pervasive that it has led some to believe that they were above and beyond the law.

I have worked in partisan politics most of my life. But I find no comfort or satisfaction in the incredible and disturbing events which confront us. This is certainly no time for partisan advantage or glee. The events of the past six weeks are, at best, depressing and, at worst, a national tragedy.

I recognize that politics and the personal loyalty that is linked with it must enter into government—not as a necessary evil, but as the mechanism of consensus and of trust.

But I have never seen a national administration more insistent on personal loyalty for its life's blood. Personal loyalty—rather than individual competence—has too often been the determinant in filling positions of high authority in this administration. It is no wonder that loyalty to administration and to friends seems to have been placed before loyalty to the constitutional institutions of government by those involved in this tragic crisis.

It has been suggested that Watergate was no different from the way things are usually done in politics. We continually hear the word "politician" linked to this event.

However, Watergate was not politics as usual. It was a flagrant violation of the law. Wiretapping, burglary, breaking and entering, conspiracy and obstruction of justice have absolutely no place in even the most vigorous partisan contest.

Even before the recent Watergate developments came to light, the President's ability to govern was being seriously impaired by his open and determined political and institutional confrontation with the Congress. This situation was most obvious in his struggle with Congress over the impoundment issue, where the President, choosing to ignore legislative mandate, recklessly cut back or eliminated entire programs established by law.

I urge the President to embark now on a course of political restraint and cooperation with the Congress, the kind of constructive partnership that alone can enable the nation to resolve or seek solutions to such urgent and pressing problems as inflation, unemployment, poverty, racism, the energy crisis, transportation, foreign trade policy, rebuilding our cities, providing good schools, assuring adequate health care and cleaning our environment.

A President cannot achieve such goals by himself, and surely the problems plaguing this presidency make such cooperation even more essential.

BROADENING THE CABINET

To develop a consensus and assure the country that the office of President is not narrowly partisan but speaks for all the people, he might well follow the precedents established by such Presidents as Roosevelt Eisenhower and Kennedy and recognize that his administration would be strengthened by including members of the opposition party in his Cabinet and at other high levels of government. Partisanship and blind personal loyalty must give way to restoring trust and confidence in government and in those who hold authority and responsibility.

The indictments, dismissals, resignations and prison sentences likely to result from the Watergate affair add to the growing public distrust of the American government. Before there can be any meaningful conduct of domestic and foreign public business, there must be a cleansing of the house of government. It is the people's trust and faith in their political leaders and institutions that give meaning to the social contract of popular government.

The loss of public confidence in any public official or in those who surround him can be rectified by an election. But the restoration of public confidence in the institutions of government is a slow process that requires constant building and rebuilding. This process will require more than punishing or censuring those who are found guilty of criminal acts. We must take positive steps:

The Senate has called for the appointment of an independent public prosecutor, a man of unquestioned integrity, the highest professional ability and the tenacity to get the job done. He must have the power, the authority and the resources to act independently to fulfill every requirement of thorough and impartial investigation and—where the facts warrant—prosecution.

The secrecy that pervades both the executive and legislative branches must be ended. Doors must be opened, so that the public's right to know is effectively upheld.

The remoteness of our President and his staff from the people and everyday life and problems of America should be discouraged.

DECENTRALIZING POWER

The relentless drive for centralization of power in the White House has occurred at the expense of public accountability and scrutiny of this powerful office. This entire process should be re-evaluated and checked. We must establish a strict code of conduct and ethics for all public employees at all levels of government.

We must press anew for urgent reform of our system of campaign financing. It is a cancer in the body politic. It lends itself to cynicism and distrust of public officials. It makes public office something to be bought and sold in the marketplace. We must close the loopholes in campaign financing laws and require full disclosure of receipts and expenditures. Strict limits must be placed on amounts to be contributed and expended. Forms of public financing—including tax credits, the dollar check-off from income tax, free television and radio time—might be provided.

Above all, we must renew our commitment to the First Amendment freedoms so necessary to safeguard the democratic process.

There is a familiar maxim—that power corrupts and absolute power corrupts absolutely. This admonition applies to both nations and individuals. With Watergate we have seen officials of our government commit criminal acts that strongly resemble the practices and methods directed against foreign governments and other peoples. Counterespionage, coverups, infiltration, wiretapping, political surveillance, all done in the name of national security in faraway places, have come home to haunt us. The spirit and the purpose of domestic policy is said to condition our foreign policy. The reverse is also true. What we do abroad influences what happens at home.

Finally, we cannot escape the ultimate implication of Watergate: that it may reflect the reality of today which permits some with money and power to live beyond the law. It is not possible to separate Watergate from

the vast financial swindles, consumer frauds, growing white-collar and street crime that all Americans must deal with on a daily basis. Morality is more than a political issue: It is a public and private issue demanding the attention of all Americans.

WILLIAM BENTON, INNOVATOR OF PRACTICAL POLITICAL IDEALISM

Mr. METCALF. Mr. President, I ask unanimous consent to have printed in the RECORD a tribute by Mr. Charles P. Taft, chairman of the Fair Campaign Practices Committee to William Benton.

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

WILLIAM BENTON

Among all the eulogies to William Benton the super-salesman, Benton the Philanthropist, Benton the intellectual, Benton the educator and Benton the public servant, we may forget too soon the part that William Benton played in our American political process. Benton the politician was more than a successful candidate for the United States Senate, more than an adviser and supporter of presidential candidates. He also deserves a share of the credit for two decades of effort to improve the political campaign climate.

William Benton, in the field of politics as in so many other fields, was an innovator. In the early 1950's when smear-by-innuendo was a standard tactic in political campaigns, William Benton urged Congressional action to uplift the moral tone of American political life.

But William Benton was more than an idealistic uplifter. Two Subcommittees of the United States Senate were investigating some of the campaign tactics of those days which seemed to indicate an underlying sickness in the political process. William Benton urged action upon the Subcommittees, but he was too much of a practical politician to believe that the Congress could legislate political morality.

Instead, he urged the establishment of "a continuing national commission of national citizens with a full-time staff to collect material, issue reports, and develop standards of behavior on the conduct of political campaigns." That was in the summer and fall of 1951, and both Subcommittee reports recommended a set of political campaign principles to be administered by a private, non-government group.

In 1954 the Fair Campaign Practices Committee was established to educate candidates, campaigners and voters on the practicality of clean campaign tactics. I became Chairman of the Committee—a post I still hold—in 1956 and William Benton officially joined the Board of Directors of the Committee in 1960.

The Fair Campaign Practices Committee certainly has not solved all the problems of dirty politics. William Benton, in his 1951 testimony which helped set the scene for the creation of the Committee, did not expect instant political honesty. William Benton, as a member of the Board of Directors of the Committee until his recent death, did not expect political miracles.

But he did urge upon all connected with the political process a belief in the sanctity of office and in the essential decency of the men selected to run for office. Because of men such as William Benton the political campaign climate is better today, and it is better because of the improvements he recommended 20 years ago.

SENATOR RANDOLPH DISCUSSES KEY ISSUES TO BE RESOLVED IN HIGHWAY CONFERENCE

Mr. RANDOLPH. Mr. President, the Congress is now approaching the final step in its development of the Federal-Aid Highway Act of 1973. The Senate conferees on this measure have been appointed and the first meeting of the conference committee is scheduled for May 9.

It is unnecessary to remind Members of the Senate that this is extremely important legislation. It is also extremely controversial legislation. Seldom, in recent years, has public attention been so intensely focused on highway legislation as during the past year.

Mr. President, I do not anticipate that this will be an easy conference. There are a number of differences in the Senate and House versions of the highway bill. That, in itself, is not unusual. This year, however, there are major questions of policy on which a sharp divergence of views has been expressed in votes by the two bodies.

I have reviewed carefully the provisions of both bills, and I believe that the major obstacles to agreement lie principally in four issues. Even though we are dealing with highway legislation, two of the questions to be resolved deal with a nonhighway subject—mass transit.

The first of these questions, of course, is whether the resources of the highway trust fund should be used to finance mass transit activities. During the development of this legislation in the Senate, there were several proposals addressed to this question. The Senate Public Works Committee recommended approval of the use of trust funds for public transportation that is highway-related, including the purchase of buses. Our committee measure was amended on the floor to extend this authority to all forms of mass transit, including rail. The House rejected such provisions. Obviously, then, a critical objective of the conferees will be to reach accommodation on this point. This must be done if we can realistically expect to have a bill enacted.

Mr. President, I believe it is important for me to clarify my position on this subject. In recent weeks there has been published speculation that I would quickly accept the House position on mass transit. On March 18 the New York Times quoted an unnamed lobbyist as saying that I would cynically report to the Senate that I was unable to persuade the conferees to accept the Senate provision. A Washington Post writer, on April 16, asserted that there was not much doubt about what JENNINGS RANDOLPH would do in the conference. "He will simply give in to the House position," the article said.

There is absolutely no basis for this supposition. It is apparently founded on my opposition to the Senate amendment which would permit the use of the highway trust fund for rail transit purposes.

In the first place, the House bill does not reflect my belief as to the relationship of the highway program to public transportation. The House bill makes scant recognition of this relationship. I have long advocated that highway funds be used to assist transit programs that are highway related. In 1969, I introduced legislation to authorize trust fund usage for highway-related transit purposes. It was considered, at that time to be an unusual proposal and it was promptly rejected during development of the Federal-Aid Highway Act of 1970. Last year and again this year, however, a similar approach was adopted by the Senate Public Works Committee. So, for me to accede to the House bill on this point would mean the abandonment of what I believe to be a proper function of the highway program.

Furthermore, I could not participate in this conference unmindful of my responsibilities to the Senate. While all conferees may not be in total agreement about every provision, it is our duty to support the Senate bill. We must do this vigorously, consistent with our overall goal of producing responsible legislation. No Senator could long maintain credibility with his colleagues if he were not a reliable representative of this body.

A second potential stumbling block for the conferees is the provision in the Senate bill providing operating subsidies for mass transit. While the subsidies would not come from the highway trust fund, this is a new program to which the administration has expressed strong objections. In many respects, though, I believe operating subsidies are more important than construction funds if American cities are to have viable mass transit systems.

There are also significant differences between the two bills as to the funding levels for the highway program. These must be resolved before the Committee of Conference can return with a report to the two Houses. Even within the total authorization figures there are significant variants in the spending proposed for individual programs. In some instances, the recommended expenditures reflect major policy directives and, therefore, must be subjected to detailed scrutiny.

The fourth major point which must be resolved in conference is that known as interstate transfer. This is a complex issue on which there are many opinions. Basically, it is concerned with the removal of urban segments of the interstate highway system and the use elsewhere, or for other purposes, of the money allocated to these segments. Provisions for interstate transfer are intended to help resolve controversy associated with a number of interstate highway segments throughout the country, particularly in urban areas. Once again, the two bodies approach the subject from different philosophical and operational viewpoints, greatly compounding the difficulty of resolution.

In addition to the four major issues in the two bills, there are, of course, other provisions on which the Senate and House did not approve identical language. I anticipate that our discussion will be lengthy and intense on such subjects as highway beautification, highway safety, a number of individual programs, and the priority primary system which was first proposed last year by the House, and rejected by the Senate conferees.

There is much at stake in this bill that makes the forthcoming conference more than routinely important. Our actions will be closely watched by the public, but we must resist the temptation to do what is expedient or what will attract headlines. I welcome public scrutiny, but the Members of the Senate and the House of Representatives, who will meet next Wednesday, must approach their work with a seriousness of purpose which re-

flects their recognition of the central role the highway program occupies in the social and economic life of the United States. I am convinced that they will do this and, that working together, a highway bill that continues this important program in a responsible manner will be produced.

DR. EUGENE BALTHAZAR, A REMARKABLE INDIVIDUAL

Mr. HUMPHREY. Mr. President, Eugene Balthazar is a remarkable individual. After 46 years as a very busy physician in general practice in Aurora, Ill., Dr. Balthazar has "retired" to do the kind of work he has been dreaming of for many years. Seven months ago, Dr. Balthazar established a clinic, open 3 days a week, to treat anyone who could not afford to go to other doctors. Dr. Balthazar collects no fees whatsoever, and has even had to put out some cash of his own to get the clinic started. The clinic is a great success and I believe that my colleagues will be interested to learn how one doctor is trying to meet the health care needs of the medically indigent in his community. I ask unanimous consent that an article from the American Medical News be printed at this point in the RECORD.

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

HE'S THANKING TOWN WITH CLINIC

Last month, the Illinois State Medical Society presented its first Humanitarian of the Year award to Eugene R. Balthazar, MD, a retired general practitioner who established a free medical dispensary in Aurora last year after 46 years of practice in the area.

"If you can afford to pay, please see your family physician," is the motto of the clinic which presently is treating 80 to 100 patients mostly acutely ill children, on an average day.

"This community has been good to my family and me for decades, and I owe the people something," said Dr. Balthazar, 71, who never gives anyone a bill and is paying about $1,000 a month out of his own pocket to keep the clinic running.

"I had the idea for years," he added, "and wanted to end my professional career in this way."

The clinic, located in a former furniture store and leased to Dr. Balthazar for $1 a year, is open from 9 a.m. to 5 p.m. on Monday, Wednesday, and Friday. It is not uncommon to see a dozen or so patients lined up outside waiting for the doors to open. No appointments are needed, and patients are seen in the order of their arrival.

Dr. Balthazar emphasizes that "no fees of any kind will be accepted under any circumstances." Upon reading and hearing of his clinic, many citizens began sending him contributions—a practice which he quickly asked to be ended.

Included in Dr. Balthazar's expenses are the salaries he pays a registered nurse, Mrs. Catherine Weiland, who was with him in his private practice, and a receptionist, Mrs. Mary Paetzold.

Volunteering their efforts are seven registered nurses, a licensed practical nurse, and 19 community workers who do interpreting and clerical work. Interpreters are necessary because Mexican-Americans comprise a significant portion of the 75,000 population of Aurora, which is about 40 miles from Chicago.

Pharmaceutical houses have heard of his practice and contributed supplies. Local retiring physicians also have given him their supplies.

In addition to volunteer aid from the medical and nursing professions, area dentists also have agreed to take patients referrals on a free basis.

"Eighty per cent of the kids we see are violently ill," (but don't require hospitalization) said the friendly, gray-haired man who never sent out bills in his private practice. "When people could pay me, they did, and sending bills was a lot of work for nothing," he said. But enough people did pay him so he could fulfill the dream of a free clinic.

Dr. Balthazar said the clinic, in just seven months of operation, has exceeded his expectations. Because of patient demand, he expects to open soon on Saturdays.

The clinic does not treat obstetrical or venereal disease cases or patients who need hospitalization. Any patient, regardless of income, is treated on his first visit. But Dr. Balthazar wants to restrict the clinic to just poor patients.

On a recent visit by American Medical News, 25 handicapped children were brought to the clinic and received a physical examination.

How long will Dr. Balthazar keep the clinic running? "Until I run out of breath or money," he says. And what does he do on Tuesday and Thursday when the clinic is not open. "I recoup," he said.

Although the clinic is only open three days a week, he still is on call 24 hours a day.

"Dr. Balthazar is a wonderful, unbelievable man," said his receptionist, Mrs. Paetzold. "He is sort of a Santa Claus."

A volunteer sitting nearby in the crowded waiting room added, "This clinic must mean an awful lot to this community, or we wouldn't have so many people."

WATERGATE

Mr. HASKELL. Mr. President, in view of recent developments surrounding the Watergate incident of last summer I thought a decision made by the San Francisco superior court in 1964 would be of interest to my colleagues.

The decision finalizes a preliminary injunction issued in 1962 in the case of the Democratic State Central Committee against Committee for the Preservation of the Democratic Party in California. The case involved a committee organized and financed by the Nixon for Governor Finance Committee, which masqueraded as a bona fide committee of Democrats.

The court found—

Mr. Nixon and Mr. Haldeman approved the plan and project. . . .

Mr. President, I ask unanimous consent that a copy of the judgment of the court be printed in the RECORD.

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

[In the Superior Court of the State of California, in and for the city and county of San Francisco—No. 526150]

JUDGMENT

(Democratic State Central Committee, et al., Plaintiffs, vs. Committee for the Preservation of the Democratic Party in California, an unincorporated association, et al., Defendants)

The above entitled matter came on regularly for hearing on October 22, 1962, at which time the above entitled Court issued a temporary restraining order against the defendant Committee for the Preservation of the Democratic Party in California, hereinafter called the defendant Committee, Joseph Robinson, Robinson & Company Inc., a corporation, William Martin, Ed Fitzharris, Harry J. Boyle, Austin Healy, Crocker-Citizens National Bank, formerly Crocker-Anglo National Bank, Recorder Printing and Publishing Company, a corporation, and Bernhard A. Hansen, individually and as vice-president of said Recorder Printing and Publishing Company. Thereafter the matter was continued from time to time to November 2, 1962, at which time the Court issued a preliminary injunction against the defendants above named. Pursuant to court order the matter was then continued while plaintiffs herein took depositions of persons not parties to this action. The matter then came up for hearing before this Court, Department 5 thereof, Honorable Byron Arnold presiding without a jury, and upon the complaint (as amended to insert the names of certain appearing defendants sued as fictitious defendants) and the above defendants' demurrer, and Gerald J. O'Gara, Esq., Webster V. Clark, Esq., and Gerald Marcus, Esq., appeared as counsel for plaintiffs and Ralph Golub, Esq., appeared as counsel for the defendants Joseph Robinson, Robinson & Company Inc., William Marlin, Ed Fitzharris, Austin Healy and Harry J. Boyle, and Almon B. McCallum, Esq. appeared for defendant Crocker-Citizens National Bank, formerly Crocker-Anglo National Bank, and Brobeck, Phleger & Harrison by Robert Metz appeared for defendants Recorder Printing and Publishing Company, and Bernhard A. Hansen, individually and as Vice President of Recorder Printing and Publishing Company. The Court having read the depositions of six witnesses taken in San Francisco and Los Angeles and all said depositions having been admitted in evidence and the Court having examined the proofs, both oral and documentary, offered by the respective parties, and further evidence having been presented and admitted from time to time until October 30, 1964; and the cause having on that date been submitted for decision, and the Court having fully considered all the evidence and arguments of counsel;

Now, therefore, the parties having waived notice of time and place of trial and findings of fact and conclusions of law herein except as specifically set forth herein and the Court being fully advised in the premises hereby finds as facts the matters set forth herein and from the facts so found makes the conclusions of law set forth herein.

It is hereby ordered, adjudged and decreed that:

1. In October, 1961, Richard M. Nixon announced his candidacy for the governorship of California.

In October, 1962, a circular to Democrats was drafted which purported to express the concern of genuine Democrats for the welfare of the Democratic Party and their fear that the party would be destroyed if candidates supported by the California Democratic Council (hereinafter called the "CDC") including primarily Governor Brown, were elected in the November 1962 election. It appealed for the support and money of Democrats in fighting the CDC and certain policies attributed to it and cast aspersions on the Democratic candidates endorsed by it. It was drafted in the form of a postcard poll addressed to Democrats. This postcard poll was reviewed, amended and finally approved by Mr. Nixon personally in the form attached hereto as Exhibit A. It criticized the policies of the CDC and the Democratic candidates it surprised, notably Governor Edmund G. Brown, and asked the addressee Democrats to express their preference either for Governor Brown and the other statewide Democratic candidates or their Republican opponents, headed by Mr. Nixon.

Nowhere in Exhibit A or letters mailed by defendant Committee was it stated that the defendant Committee and its mailing of Exhibit A were supported and financed by the Nixon for Governor Finance Committee. Mr. Nixon and Mr. Haldemann approved the plan and project as described above and agreed that the Nixon campaign committee would finance the project.

Officials of the Nixon for Governor Committee then made an agreement with de-

fendants Robinson and Company, a corporation and Joseph Robinson, whereby for the sum of $70,000 Robinson and Company agreed to print, address and mail the postcard poll as described above and to receive and compile the results of the poll as indicated on the return postal cards.

In accordance with that agreement defendants Robinson and Co. and Joseph R. Robinson mailed more than 500,000 postcards to registered Democratic voters in California in the month of October, 1962. That mailing continued until this Court enjoined further mailings and enjoined compilation or publication of any poll resulting from the distribution or mailing of the postcards.

As shown by the report of the Nixon for Governor Finance Committee filed with the Secretary of State of California and attached as Exhibit B, and by the testimony of members of the Nixon Finance Committee and Campaign Committee, the Nixon campaign paid $70,000 to defendant Robinson and Company for its work in connection with the distribution of the postcard attached as Exhibit A and with the taking of this poll in the name of the Committee for the Preservation of the Democratic Party in California.

The financial support for the defendant Committee consisted of the above sum contributed by the Nixon for Governor Finance Committee and approximately $368.50 which was contributed by Democratic voters in response to the postcard and appeals circulated and made by the defendants Robinson and Company, Joseph Robinson, the defendant Committee and other defendants.

The executive secretary of the defendant Committee was defendant William Marlin. He was paid $750 for his services by defendant Committee.

Defendant Ed Fitzharris was one of the publicists employed by the defendant Committee. He was paid $1000 for his services on behalf of defendant Committee.

2. Plaintiff the Democratic State Central Committee, also known as the California Democratic State Central Committee, is the official committee of the Democratic Party in California. The Democratic State Central Committee exists pursuant to the Elections Code of California and conducts the business and campaigns of the Democratic Party in California. It is the only official statewide Democratic organization in the State of California.

3. On December 10, 1962, John Robert White, as treasurer of the Nixon for Governor Finance Committee 1962 General Campaign caused to be filed with the Secretary a Statement. The statement Exhibit B contained under heading "Expenditures for Payment of Personnel, Item (d)" an entry as of State of California a General Campaign follows "Robinson and Co.—$70,000."

This payment was the largest single item of expenditure for payment of personnel in the statement.

Defendant Robinson & Company received the above sum from the Nixon for Governor Finance Committee for the mailing of the double postcard attached hereto as Exhibit A and related services. Payment was received by Robinson & Company in the form of two checks drawn on the Nixon for Governor Finance Committee account, one dated October 5, 1962, check No. 3530 for $35,000, and one on October 22, 1962, check No. 3837 for $35,000.

Said checks are attached hereto as Exhibits C and C1 respectively.

4. All accounts and ledger sheets which defendants Joseph Robinson and Robinson and Company Inc. carried on behalf of the defendant Committee were carried in the name of "Nixon for Governor Campaign—(Committee for Preservation of Democratic Party in California)" as reflected by the ledger sheet attached hereto as Exhibit D.

All statements for the work performed by defendants Joseph Robinson and Robinson and Company for and on behalf of the defendant Committee were sent for payment to H. Robert Haldeman, Campaign Manager of the Nixon for Governor Campaign Committee.

5. Richard Nixon in his campaign for the governorship of California, felt that the postcard and poll, Exhibit A would be very helpful to him since it reflected his own position concerning the relationship of Democrats to the CDC.

The list of seven so-called objectives or viewpoints purportedly held by the CDC, beginning with "Admitting Red China into the United Nations" and ending with "Refusal to Bar Communists from the Democratic Party," as recited in the postcard Exhibit A were substantially the same as charges made repeatedly by Mr. Nixon in his campaign speeches.

6. The defendant Committee for the Preservation of the Democratic Party in California consisted at most of 20 or 30 members. Defendants Austin Healy and Harry J. Boyle were and are co-chairmen of said Committee.

7. Defendant Joseph Robinson, president of defendant Robinson and Company, Inc. is a professional political pollster and fund raiser for campaigns. Defendant Robinson and his corporation arranged for printing and handled the distribution of the postcard Exhibit A.

8. In October, 1962 defendant Committee for the Preservation of the Democratic Party in California and its members, agents and/or employees, namely, defendants Joseph Robinson, Robinson and Company, Inc., a corporation, William Marlin, Harry J. Boyle, Austin Healy and Ed Fitzharris, directly and indirectly solicited funds upon representations, express and implied, that the funds were being solicited for the use of the Democratic Party.

In truth and fact, such funds were solicited for the use, benefit and furtherance of the candidacy of Richard M. Nixon for Governor of California.

None of the following persons gave their consent to the Committee for the Preservation of the Democratic Party in California to solicit funds for or on behalf of the Committee for the Preservation of the Democratic Party in California or the Democratic Party in California:

Stanley Mosk, Democratic National Committeeman from California;

Elizabeth Rudel Gatov, Democratic National Committee Woman from California;

Eugene Wyman, Chairman of the California Democratic State Central Committee;

Roger Kent, Chairman of the Northern Division of the California Democratic State Central Committee;

John Kerrigan, Chairman of the Southern Division of California Democratic State Central Committee.

Nor did any executive committee of any Democratic county central committee wherein the solicitation was made given such consent.

9. Defendants Committee, Marlin, Robinson and Company, Inc., Robinson, Boyle, Healy and Fitzharris made various misleading statements as specified below in connection with said postcard poll, Exhibit A, the letters of October 15, 1962 and October 17, 1962 attached hereto as Exhibits E and E1 respectively, and the press releases attached hereto as Exhibits H and H1.

(a) (Statement) That the Democratic Party or a qualified Committee thereof or members of the Democratic Party sincerely interested in preserving the Democratic Party were mailing postcard Exhibit A to Democratic voters in order to secure a poll of members of the Democratic Party answering the questions on Exhibit A relating to said party and its candidates and wished such Democratic voters to fill out the poll contained therein and return it to the defendant Committee organized, dedicated and operating for the preservation of the Democratic party and/or to the Democratic Party.

(Fact) Neither the Democratic Party nor plaintiff Democratic State Central Committee nor any qualified officer, official or committee thereof or any member of the Democratic Party primarily interested in its welfare or preservation had any connection with or knowledge of or in any way sponsored or approved the acts or conduct of defendants or any of them or said postcard Exhibit A, the letters Exhibits E and E1 or said poll. On the contrary plaintiffs representing said Democratic Party opposed said postcard Exhibit A, letters Exhibits E and E1, and said poll and the Committee's activities.

(b) (Statement) That the Democratic Party and its fundamental and historic policies were and are in opposition to the CDC and its policies.

(Fact) The Democratic Party and the CDC are dedicated to the same basic general objectives and principles.

The Democratic Party is the official organization and is represented by plaintiff Democratic State Central Committee, constituted as set forth below in this paragraph 9, subparagraph (f) below.

The CDC is an unofficial organization of volunteer Democratic voters.

In a relatively few instances plaintiff Democratic State Central Committee and the CDC have taken different positions on specific issues.

In those cases, plaintiff Democratic State Central Committee has not adopted or accepted the policies of the CDC. On the other hand, it has not attempted to destroy the independent character of the CDC by denying its members the right to express their opinions.

(c) (Statement and Implication) That the Democratic Party wished said voters to send money for the use and benefit of the Democratic Party and its statewide candidates to the Committee for the Preservation of the Democratic Party in California, Crocker Anglo National Bank, One Montgomery Street, San Francisco, California, and the defendant Committee was a bona fide committee of Democrats organized for the sole purpose of preserving the Democratic Party in California and was appealing to and soliciting Democratic voters for contributions of money to be used for the use, benefit and preservation of the Democratic Party in California.

(Fact) The defendant Committee and its postcard poll and its activities were financed by, for and in aid of the campaign to elect Mr. Nixon Governor of California.

Defendant Marlin in a memorandum attached as Exhibit I recorded the "queries I have had from the Press and the way I am answering them." in part as follows:

"1. How are you being financed?

"A. We have appealed to Democrats throughout the State, and so far their support has been most encouraging and helpful. An appeal has been sent to some 50,000 registered Democrats—along with a Poll on their reactions to the CDC. We are hopeful that we will receive enough financial support to expand this list to some one-million Democrats in California."

"2. Are you receiving any Republican money?

"A. We are not refusing any contributions—and naturally, the Republicans are interested in this campaign. We are considering extending our fund-appeal to Republicans, as we believe all citizens should be concerned with the power-grabbing strategy of the CDC."

"9. Are you urging Democrats to support Nixon and other Republican candidates?

"A. We are not conducting a campaign of *any* candidates. We are campaigning for the preservation of the Democratic Party by exposing the CDC's left-wing stands and power-grabbing tactics. We are making a plea to clean up the Democratic Party."

(d) (Statement) That the defendant Committee was a bona fide committee of

Democrats organized, dedicated and operating for the sole purpose of preserving the Democratic Party, and desired and was sincerely endeavoring by the postcard Exhibit A to secure a fair and representative poll of all segments of the Democratic Party and to determine by such poll the general sentiment of the rank-and-file members of the Democratic Party toward the CDC, the policies of the CDC and the statewide Democratic candidates, and to determine whether members of the Democratic Party as a whole preferred to support the named statewide Democratic candidates, and in particular Governor Brown, or felt that in order to preserve their party from control and domination of the CDC they should vote for Republican candidates, and in particular for Richard M. Nixon for governor of California.

That the results of the poll would reflect the feelings of rank-and-file Democrats including liberal, progressive and middle of the road Democrats as well as conservative Democrats.

(Fact) The activities of defendant Committee, including its postcard poll, its letters and its publicity releases, were instigated, financed, prepared, implemented, supervised and executed by the Nixon for Governor Campaign Committee and the Nixon for Governor Finance Committee. This is evidenced by these facts:

The invoice dated September 19, 1962 from defendant Robinson & Company Inc. to Nixon for Governor Campaign Committee, attached as Exhibit G provided for a "statewide mailing to 900,000 *Conservative* Democrats, also handling and tabulating poll."

When returns were received from said postcard poll, however, they were publicized by the defendant Committee as representing the "voice of the rank and file Democrat."

In the publicity release attached as Exhibit H, distributed to and published substantially by various California newspapers, dated October 20, 1962 for release October 22, 1962, the defendant Committee stated in part:

"First returns of a Poll being circulated to more than one hundred thousand Democrats throughout California indicate that:

"Nine out of ten registered Democrats flatly reject the 'ultra-liberal' California Democratic Council (CDC).

"The voice of the rank-and-file Democrat is now being heard, and that voice is speaking out loud and clear against the CDC and all it represents.

"Financial support has been pouring in from all over the State, providing means of expanding our Poll, and permitting thousands of rank-and-file Democrats to express themselves on this imperative question."

Defendant Committee failed to inform the Democrats receiving the postcard poll Exhibit A and the public that said poll actually was mailed to precincts consisting predominantly of conservative Democrats.

In its publicity release attached as Exhibit H1, distributed and published substantially by various California newspapers, dated October 26, 1962 for release October 27, 1962, the defendant Committee stated in part:

"The order Kent has obtained, prevents our Committee from releasing to the Press the results of a valid poll of some half-million registered Democrats in California, on their reactions to domination of the Party by the left-wing CDC (California Democratic Council)."

For the reasons set forth above the questions in the postcard Exhibit A confused and misled Democrats and produced answers which served primarily the purpose of assisting Mr. Nixon in his campaign.

(e) (Statement) That "Governor Brown . . . has become their (referring to the CDC) captive." (Exhibit A).

(Fact) This statement is false.

(f) (Statement) That the CDC in the 1962 campaign dominated and directed the Democratic Party and captured and dominated Democratic nominees, the Democratic State Convention, and leadership of the Democratic Party.

(Fact) The State Convention of the Democratic Party is made up of nominees selected by the voters in free and open primary elections. The Democratic State Central Committee is made up of such nominees and their appointees and the Chairmen of the 58 Democratic County Central Committees. Such chairmen are duly elected by the members of their respective committees who in turn are elected by the rank-and-file Democratic voters. The officers of the Democratic State Central Committee are elected by members of the Committee. The nominees of the party and its officials are therefore directly selected by the rank-and-file Democratic voter and in the case of officers of the Democratic Party by representatives of the rank-and-file voters.

10. The postcard Exhibit A, the letters Exhibit E and E1, and the publicity releases Exhibits H and H1 were advertising by the defendants Committee, Joseph Robinson, Robinson and Company, Inc., Marlin, Boyle Healy and Fitzharris for the purpose of securing votes and money from members of the Democratic Party.

They were misleading in the particulars stated in paragraph 9 and elsewhere in this Judgment.

11. The postcard Exhibit A was a pamphlet and printed matter having reference to the 1962 general election and to the statewide candidates in said election and did not bear upon its face the name or address of the printer or publisher.

12. By reason of the facts herein stated plaintiffs were obliged to spend more than $10,000 in pursuing this action and enjoining the acts and conduct of said defendants Committee, Marlin, Joseph Robinson, Robinson & Company, Inc., Boyle, Healy and Fitzharris.

13. In response to the postcard Exhibit A and letters Exhibits E and E1, various Democratic voters contributed money to said defendant Committee. The balance of such money so collected amounts to approximately $368.50 and is now on deposit in the head office of the Wells Fargo Bank, 464 California Street, San Francisco, in an account entitled "Roger Kent and Gerald J. O'Gara, Trustees for the Democratic State Central Committee."

The parties have stipulated that plaintiffs shall be awarded damages in the sum of $100 and costs in the sum of $268.50 (or balance remaining in said Wells Fargo Bank account above described). All such damages and costs to be paid exclusively from such account.

14. The temporary restraining orders and the preliminary injunctions heretofore issued herein were properly issued by reason of the facts set forth herein and the reasons set forth in said temporary restraining order and preliminary injunction, including the following reasons:

(a) Because of the location of defendants and their agents in various widely separated parts of California, including San Francisco and Los Angeles Counties, a multiplicity of suits would have been necessary to secure damages.

(b) Any final judgment after November 6, 1962 would have been ineffectual and a preliminary injunction after November 6, 1962 would have been of virtually no value compared to the temporary restraining order issued October 22 and the preliminary injunction issued November 2, 1962.

15. Unless restrained during this action and permanently (except those defendants dismissed herein by stipulation) enjoined by this Court, defendants/intended to and were and/or are likely to

(a) Publish, post, mail, circulate and distribute the postcard and writing in the form of Exhibits A, E and E1 attached hereto or in some form substantially similar to said Exhibits.

(b) Publish, post, mail, circulate, reveal or distribute results from the poll which they conducted or could conduct by means of Exhibit A.

(c) Solicit, collect or accept money from Democratic voters by using directly or indirectly a postcard, pamphlet, folder, letter or writing in the form of Exhibits A, E and E1 or forms substantially similar to said Exhibits.

(d) Use, appropriate, spend and disburse money received from registered Democratic voters in response to or in connection with said postcard Exhibit A, and letters Exhibits E and E1.

(e) Use in some manner or through some medium said Exhibit A or the contents thereof and the matters or things growing out of or resulting from the publishing, posting, mailing, circulating or distributing of said Exhibit A or perform acts in furtherance of or in connection with the activities set forth in said Exhibit A. In this connection all defendants represent that according to their best knowledge, information and belief they do not have on hand, in their possession or under their control at various United States Post Offices in California or elsewhere postcards in the form of Exhibit A addressed to various Democratic voters and not yet delivered, return postcards part of said Exhibit A, tabulations of certain return postcards which were part of said Exhibit A or alleged polls based upon such tabulations or other memoranda, correspondence or writings purporting to show the opinions and positions of Democratic voters on the candidates and issues mentioned in said postcard Exhibit A.

However, defendants agree that if any such postcards, return postcards, tabulations, polls, memoranda, correspondence or writings are hereafter discovered by defendants and come into their possession or under their control defendants will cause all such material to be destroyed forthwith or will without disclosing or publicizing the same to any person (other than plaintiffs or to this Court) deliver the same to this Court for safekeeping or destruction as the Court may determine best.

16. Plaintiffs have filed herein undertakings of corporate surety, Peerless Insurance Company, a corporation, in due form as required by law in the sum of $10,000 as a bond given upon issuance of the temporary restraining order herein and $10,000 as a bond given upon issuance of the preliminary injunction.

17. In this action service of the complaint and other papers upon various defendants designated therein by fictitious names was made in accordance with law as follows:

FICTITIOUS NAME—TRUE NAME

First Doe—Ed Fitzharris.

Third Doe—Austin Healy.

Fourth Doe—Robinson and Co., Inc.

Eighth Doe—William Marlin.

Ninth Doe—Crocker-Anglo National Bank of San Francisco, now Crocker-Citizens National Bank.

Thirteenth Doe—Recorder Printing and Publishing Company, a corporation.

Fourteenth Doe—Bernhard A. Hansen, individually and as vice-president of Recorder Printing and Publishing Company.

18. All parties hereto have stipulated that this action shall be dismissed upon entry of judgment as to defendants, Joseph Robinson, individually, Crocker-Anglo National Bank, now Crocker Citizens National Bank of San Francisco, Recorder Printing and Publishing Company, and Bernhard A. Hansen, individually and as vice-president and general manager of Recorder Printing and Publishing Company, a corporation, and upon plaintiffs and said dismissed defendants exchanging mutual releases.

19. The postcard, Exhibit A, and the letters of October 15, 1962 and October 17, 1962, Ex-

hibits E and E1 respectively, were instigated, written, financed and published by supporters of Richard M. Nixon as a candidate for governor of California, and their agents, including defendants Committee, Marlin, Robinson & Company, Inc., Joseph Robinson, Boyle, Healy and Fitzharris.

20. The paramount purpose for organizing the Committee for the Preservation of the Democratic Party in California and its related postcard, poll and activities was to obtain from registered Democrats votes and money for the campaign of Richard M. Nixon.

21. Plaintiff Democratic State Central Committee, also known as the California Democratic State Central Committee, as the official Committee of the Democratic Party in California and the only official statewide Democratic organization in the State of California, was and is entitled to bring and prosecute this action.

Plaintiffs Roger Kent and Elizabeth Rudel Gatov have brought and were and are entitled to bring and prosecute this action in behalf of themselves individually and in their official capacities respectively, (namely, Roger Kent as vice-chairman and member of the Executive Committee of the Democratic State Central Committee and now State Chairman of said Committee and Elizabeth Rudel Gatov as Democratic National Committeewoman for California) in behalf of all registered California Democratic voters and members and officers of the Democratic State Central Committee and its statewide candidates at the 1962 General Election.

22. Defendants Committee and its members, agents and/or employees, namely, defendants Joseph Robinson, Robinson & Company, Inc., a corporation, Marlin, Boyle, Healy and Fitzharris directly and indirectly solicited funds upon representations, express and implied, that the funds were being solicited for the use of the Democratic Party. This solicitation was in violation of Section 12301 of the Elections Code of the State of California.

None of the persons or Democratic Party officials or Democratic County Central Committees required to give such consent by said Section 12301 consented to such solicitation.

23. The acts and conduct of said defendants Committee, Marlin, Joseph Robinson, Robinson & Company, Inc., Boyle, Healy and Fitzharris, and each of them in circularizing members of the Democratic Party for votes and funds through the use of the postcard, Exhibit A and the letters of October 15, 1962 and October 17, 1962, respectively, Exhibits E and E1, constitute misleading advertising in the particulars stated in paragraphs 9 and 10 and elsewhere herein.

Such acts and conduct were and are subject to restraint by temporary restraining order, preliminary injunction and permanent injunction under the provisions of Civil Code Section 3369 of the State of California.

24. Failure of said defendants Committee, Marlin, Robinson & Company, Inc., Boyle, Healy and Fitzharris to print the name and address of the printer or publisher on the face of the postcard Exhibit A was a violation of Section 11592 of the Elections Code of the State of California.

25. Plaintiffs were damaged in a sum exceeding $10,000 which plaintiffs were obliged to spend in pursuing this action and enjoining the above recited acts of the defendants Committee, Robinson & Company, Inc., a corporation, Marlin, Boyle, Healy and Fitzharris.

26. The sum of approximately $368.50 collected from Democrats in response to the postcard Exhibit A and letters Exhibits E and E1 is now on deposit at the head office of the Wells Fargo Bank, 464 California Street, San Francisco, California, in an account entitled "Roger Kent and Gerald J. O'Gara, Trustees for the Democratic State Central Committee."

By stipulation plaintiffs shall be awarded $100 as damages and $268.50 for costs. The payment of these sums shall be made exclusively from said Wells Fargo Account. Judgment for such sums is hereby awarded against defendants Committee, Robinson & Company, Inc., a corporation, Marlin, Boyle, Healy and Fitzharris.

27. For the reasons stated herein plaintiffs were entitled to the temporary restraining order issued October 20, 1962 restraining defendants Committee, Joseph Robinson, Robinson & Company, Inc., a corporation, Marlin, Fitzharris, Boyle, Healy, Crocker Anglo National Bank of San Francisco, a corporation, Recorder Printing and Publishing Company, a corporation, and Bernhard A. Hansen, individually and as vice president of the Recorder Printing & Publishing Company. Said temporary restraining order was regularly and properly issued and the issuance thereof is hereby approved and confirmed.

For the reasons stated herein, plaintiffs were entitled to the preliminary injunction issued November 2, 1962, restraining the same defendants. Said preliminary injunction was a regularly and properly issued and the issuance thereof is hereby approved and confirmed.

28. For the reasons set forth herein, plaintiffs are entitled to and are hereby granted a permanent injunction forbidding defendants Committee, Marlin, Robinson & Company, Inc., Boyle Healy and Fitzharris to

(a) Publish, post, mail, circulate or distribute the postcard and writings in the form of Exhibits A, E and E1 attached hereto or in any form substantially similar to said Exhibits.

(b) Publish, post, mail, circulate, reveal or distribute results from the poll which said defendants conducted or could conduct by means of Exhibit A.

(c) Solicit, collect or accept money from Democratic voters by using directly or indirectly a postcard, pamphlet, folder, letter or writing in the form of Exhibits A, E and E1 or forms substantially similar to said Exhibits.

(d) Use, appropriate, spend or disburse money received from registered Democratic votes in response to or in connection with said postcard Exhibit A, or letters Exhibits E and E1.

(e) Use in any manner or through any medium said Exhibit A or the contents thereof and matters or things growing out of or resulting from the publishing, posting, mailing, circulating or distributing of said Exhibit A, or perform acts in furtherance of or in connection with the activities set forth in said Exhibit A.

29. The bonds heretofore filed by plaintiffs and their corporate surety, Peerless Insurance Company, as required by the Court for issuance of the temporary restraining order and preliminary injunction are hereby exonerated and said plaintiffs and said surety are hereby discharged and exonerated from any liability to any of the defendants (including dismissed defendants) herein growing out of or connected with the filing or prosecution of this action or the issuance of said temporary restraining order or preliminary injunction.

30. Pursuant to the stipulation by all parties hereto, this action shall upon entry of judgment be dismissed as to defendants Joseph Robinson, individually, Crocker-Anglo National Bank, now Crocker Citizens National Bank of San Francisco, Recorder Printing and Publishing Company, a corporation, and Bernhard A. Hansen, individually and as vice-president and general manager of Recorder Printing and Publishing Company, a corporation, when plaintiffs and said dismissed defendants exchange mutual releases.

31. To the extent there is any conflict between earlier orders of this Court and only to that extent, this judgment and permanent injunction immediately upon filing, shall supersede the orders of this Court restraining and enjoining the above named defendants.

32. The stipulations of the parties herein and in the stipulation attached, are hereby approved, confirmed and made a part of this judgment.

33. Except as herein specifically set forth, each party, (including defendants dismissed) shall pay his or her own costs, expenses and attorneys' fees.

34. Service of a copy of this judgment shall be effective upon delivery to the attorneys for said respective defendants of a certified copy of this judgment with the same force and effect as if such copy were personally served upon such defendants.

Done in open Court October 30, 1964.

BYRON ARNOLD,
Judge of the Superior Court.

[Post Card]

POLL SELECTION

In view of the increasing domination of the Democratic Party by the CDC (California Democratic Council), we are anxious to obtain an opinion sampling of California Democrats. Please fill out and mail before October 23.

(NOTE.—The question to item No. 1 is: *Do You Agree or Disagree?*

1. The CDC leadership viewpoint favors:

Admitting Red China into the United Nations.

Moratorium on U.S. nuclear testing.

Allowing subversives the freedom of college campuses.

Abolition of State and Federal loyalty oaths.

Abolition of the House Committee on Un-American Activities.

Foreign aid to countries with Communist governments.

Complete national disarmament as ultimate goal.

Refusal to bar Communists from the Democratic Party.

(NOTE.—The answer to items Nos. 2 and 3 is "Yes" or "No.")

2. Can California afford to have a Governor indebted to the CDC—who has stated he will veto any legislation damaging to the CDC—who calls it "my strong right arm"—who declares, "I am proud of my membership in the CDC."

3. What course of action should be taken by independent Democrats who don't belong to the CDC and want no part of it?

Demand that Democratic candidates disclaim and abandon the CDC.

Refuse to support candidates who don't renounce the CDC.

Support a Republican candidate rather than sell out the Party and the State Government to CDC objectives.

(NOTE.—Mark one name in each category.)

4. Who in your opinion will win in November?

Governor: Brown or Nixon.

Lt. Governor: Anderson or Christopher.

Attorney General: Mosk or Coakley.

Secretary of State: Rose or Jordan.

Controller: Cranston or Reagan.

Treasurer: Betts or Busterud.

U.S. Senate: Richards or Kuchel.

Supt. of Public Instruction: Richardson or Rafferty.

If you, too, feel it important to preserve our Democratic processes and cut off the CDC handcuffs, please send a contribution today to the Treasurer, Committee to Preserve the Democratic Party in California, Crocker Anglo Bank, One Montgomery Street, San Francisco, California.

And please write us your views.

COMMITTEE FOR THE PRESERVATION OF THE DEMOCRATIC PARTY IN CALIFORNIA.

[Post Card]

DEAR FELLOW DEMOCRAT: This is not a plea for any candidate. This is to ask you: Are you aware of what has happened to our Party during the past four years? Many Democrats like ourselves are shocked over the domination of the Democratic Party by the CDC

(California Democratic Council). Yet most Democrats are frankly revolted by the CDC leadership's objectives and viewpoint which have included:

Admitting Red China into the United Nations.

Moratorium on U.S. nuclear testing.

Allowing subversives to speak on college campuses.

Abolition of State and Federal loyalty oaths.

Abolition of the House Committee on Un-American Activities.

Foreign aid to countries with Communist governments.

Refusal to bar Communists from the Democratic Party.

These certainly are not the Democratic Party objectives. Yet, operating behind the Democratic Party screen, the CDC is directing the Party, is capturing and dominating Democratic candidates.

Our present Party ticket is composed entirely of CDC nominees, originally proposed, sponsored and handed to the Party by the CDC Convention in Fresno four years ago. Whether willingly or weakly, Governor Brown who was accepted by the CDC and endorsed by them, has become their captive. His capitulation is evident in his statement to the press that he would veto any legislation damaging to the CDC. He told their convention in January, 1962, "The CDC is the strongest political organization in America." He calls it "my strong right arm." He says, "I am proud of my membership in the CDC."

Who are other nominees loaded on our Party by the left-wing CDC? Generally they are men either approving CDC objectives, or undistinguished, unprepared for high office or weak and unwilling to oppose the CDC.

The grave situation was demonstrated at the Democratic State Convention where CDC leaders forcibly prevented adoption of a simple resolution to bar Communists from the Democratic Party organization. After the defeat, a Party spokesman told the press, "If we refuse to ban Communists from the Democratic Party—it means we welcome them!"

As a Democrat—what do you feel we can do to throw off the shackles of this left-wing minority, now so powerful it can dictate the course of our Party?

Should we act now and in the time ahead, to reclaim our Party and restore Party leadership selection to the rank and file membership? Should we repudiate the arrogant assumption that free men dedicated to revered Democratic principles will blindly follow the dictates of those whose objectives are foreign to our own?

We believe our one great weapon is a passive weapon—simple refusal to go along with them. We can break the power of the CDC by refusing to elect their candidates. Or we can take acceptable Republicans—if we can find any. Whatever we do, in the name of the Democratic Party—

Let's Not Deliver California to the CDC!

COMMITTEE FOR THE PRESERVATION OF THE DEMOCRATIC PARTY IN CALIFORNIA.

CHECK No. 3530

NIXON FOR GOVERNOR FINANCE COMMITTEE

Los Angeles, Calif., October 5, 1962.

Pay Thirty five thousand and no/100 Dollars ($35,000)

To the Order of Robinson & Company Inc.

Date: June 18, 1963.

Pay to the order of Crocker First National Bank of San Francisco, Robinson & Company, Inc.

SECRETARY OF STATE,

Sacramento, Calif., June 18, 1963.

I, Frank M. Jordan, Secretary of State of the State of California, hereby certify:

That the transcript hereunto annexed, under heading "Nixon for Governor Finance Committee—1962 General Campaign Statement"—with first name thereon being Carol Arth and last name thereon being Helen Gale, is a true copy of one page of the December 10, 1962, Campaign Statement filed in this office on December 11, 1962;

That said Campaign Statement was filed on behalf of John Robert White, shown therein as the Treasurer of said Nixon for Governor Finance Committee.

In witness whereof, I hereunto set my hand and affix the Great Seal of the State of California this 17th day of January, 1963.

[SEAL] FRANK M. JORDAN,
Secretary of State.

Nixon for Governor Finance Committee—1962 general campaign statement

Item (d)—Expenditures for payment of personnel—

Campaign managers:	
Carol Arth	$5,000.00
Charles Farrington	6,250.00
Harry Haldeman	13,750.00
Herbert Kalmbach	1,533.08
John Kalmbach	6,000.00
Alvin Moscow	9,000.00
William Spencer	1,000.00
Louis Quinn	8,795.45
Daniel C. Waters	6,034.09
Total	57,362.62
Advertising agencies and publicity agents:	
Joseph Agnello	6,360.00
Lennie Blondheim	4,079.80
Bozell & Jacobs, Inc	29,094.49
Braun & Co	3,000.00
Robert Carvajal	1,023.75
Thomas Caton	1,281.34
H. Blake Chatfield	1,600.00
Frank DeMarco	1,150.00
Stephen Hess	15,000.00
D. Hunter	5,000.00
Herbert Klein	3,009.00
Victor Lasky	3,000.00
Phillip W. Moore	2,600.00
Richard Quinn	$4,290.91
Robinson & Co	70,000.00
Al Weinberg	4,254.55
Jay Williams	85.00
W. K. Wilson	900.00
Ronald Ziegler	3,218.18
Total	158,947.02
Stenographers and clerks:	
Marjorie Acker	3,811.36
Daphne Alley	2,052.27
Julie Anderson	956.25
Nancy Arth	468.00
Bonita Bailey	278.47
Joan Baldesarre	1,500.00
Barbara Baskerville	250.00
Wilma Battle	900.00
Lance Bozwell	36.00
Charles Brammer	2,649.00
John Carley	510.00
Joan Carroll	709.09
Rowland Carter	1,473.73
Dwight Chapin	2,059.09
Barbara Clem	1,437.50
Gladys Crane	16.00
Elby Cuniberti	620.00
Jane Dannenhauer	3,518.18
Peter Decker	120.00
Jean Dewey	2,400.00
Anna Mae Eckhoff	80.00
Dorothy Elliott	1,012.50
Virginia English	161.77
Paul Enseki	403.13
Norene Evans	435.00
John FitzRandolph	487.50
Helen Gale	1,800.00

NOTES

Lawful expenses are limited to expenses for those purposes only which are set forth in the first column on the inside pages of this form.

11500. Expenses must be lawful. Neither a candidate nor committee nor any body of superior authority to which the committee is subject, whether before, during or after an election or primary, may directly or indirectly pay, expend or contribute any money or other valuable thing, or promise so to do, except for lawful expenses.

Note particularly the following pertinent sections of the Elections Code:

11501. Candidate defined. "Candidate" means any person who seeks nomination or election to a federal, state, county, judicial, or hospital district office, or to a municipal office in a general law or chartered city, at any election or primary conducted within this State. "Candidate" also includes persons seeking election to a county central committee at the direct primary election.

11561. Candidate: Municipal Office. A candidate or nominee for a municipal office or for election to the office of director of a hospital district need not file a campaign statement if the lawful receipts and expenses of his campaign do not exceed two hundred dollars ($200). However, elected candidates or candidates nominated at a primary election shall file a written declaration to that effect if their campaign receipts and expenses do not exceed two hundred dollars ($200).

11502. "Committee." "Committee" means a committee or group of persons organized for the purpose or charged with the duty of conducting the election campaign of any political party or of any candidate or group of candidates.

11530. Committee shall appoint treasurer. Each committee shall appoint a treasurer who shall receive, disburse, and keep a true account of all money contributed and disbursed for campaign purposes, and who shall, in the same manner and on the same type of forms as required of candidates, file a campaign statement. The county clerk, upon request, shall furnish the treasurer with the necessary forms for submitting the campaign statement required of him by this section.

11531. Candidate may act as campaign treasurer. A candidate may act as the campaign treasurer of his committee but may not act as treasurer for another candidate. When acting as a campaign treasurer, the candidate may sign the campaign statement of the committee.

11560. Campaign statement necessary: Verification. Except as provided in Section 11561, each candidate and the treasurer of each committee shall make and file a campaign statement following the election or primary, as the case may be.

A campaign statement filed with respect to a primary election shall be verified. The verification shall state that the candidate or treasurer has used all reasonable diligence in its preparation, and that it is true and is as full and explicit as he is able to make it.

11562. Responsibility for Illegal Payment. If a candidate at any election other than a primary seeks to avoid the responsibility of any illegal payment made by any other person in his behalf, he shall set out that illegal payment in the campaign statement and disclaim responsibility for it.

11563. Time for filing statement. All candidates for either nomination or election and the treasurer of each committee shall file their campaign statements within 35 days after the election or primary, or not later than the day preceding the day upon which the candidate takes office, whichever first occurs.

11564. Where filed. Candidates for office to be filed by the voters of the State or of any political division greater than a county, for Members of the Senate or Assembly, Representative in Congress, members of the State Board of Equalization, or judge of the superior court, and treasurers of committees for such candidates, shall file one copy of their campaign statements in the office of the Secretary of State and one copy with the clerk of the county in which the candidate resides.

Candidates for all other offices, except municipal and hospital district offices, and treasurers of committees for those candi-

dates, shall file one copy of their campaign statements in the office of the clerk of the county wherein the election is held.

11568. Municipal candidates. Candidates for municipal offices and treasurers of committees for those candidates shall file one copy of their campaign statements, or written declarations as required in Section 11561, in the office of the clerk of the city in which the election is held.

11569. Hospital District Candidates. Candidates for hospital district offices and treasurers of committees for those candidates shall file one copy of their campaign statements, or written declarations as required in Section 11561, in the office of the secretary of the district in which the election is held.

11565. Certificate of nomination issued after filing. No officer shall issue any certificate of nomination or election to any person until his campaign statement or the written declaration required in Section 11561 has been filed. No other statement of expenses shall be required. The officer with whom campaign statements or written declarations must be filed pursuant to Sections 11564, 11568, or 11569 shall send to the candidate, not more than three days after the election, the necessary forms of submitting his campaign statement.

11566. No fees. No fee or charge shall be made or collected by any officer for the verifying, filing, or recording of any campaign statement.

11567. Preservation of statements. Campaign statements shall be held by the officer with whom they are filed during the term of office for which they are filed and for four years after the expiration of the term. Thereafter they may be destroyed by that officer.

See also Elections Code Sections 11500 through 11631, and Sections 12000 through 12057.

COMMITTEE'S CAMPAIGN STATEMENT OF RECEIPTS AND EXPENDITURES

I, John Robert White was treasurer of the Committee for election of Richard M. Nixon to the office of Governor of California at the election held on the sixth day of November, 1962.

All money paid, loaned, contributed or otherwise furnished to the Committee, or for the Commitee's use directly or indirectly, in aid of the election and the name of all persons who paid, loaned, contributed or otherwise furnished such moneys and the specific purposes (if any) for which such moneys were contributed or loaned, were to the best of my knowledge and belief, as follows, to wit:

Receipts—See schedule attached.

Total amount received: $1,456,473.04

All moneys contributed loaned or expended by the Treasurer of the Committee, directly or indirectly by the Treasurer of the Committee or through any other person, in aid of the election and the names of all persons to whom such moneys were contributed, loaned or paid, and the services performed and by whom performed and the purpose and specific nature of each item, were to the best of my knowledge and belief, as follows to wit:

[Attachments]

Nixon for Governor Finance Committee—1962 general campaign statement

Item (q)—Expenditures for repayment of loans:

Mrs. Susan V. Buckingham	$10,000.00
Jack Drown	10,000.00
J. R. Fluor	10,000.00
J. S. Fluor	10,000.00
Stanley Freeman	10,000.00
H. L. Hoffman	10,000.00
Truman Johnson	10,000.00
Charles Jones	10,000.00
Willard Keith	10,000.00
Henry Kearns	10,000.00
Henry T. Mudd	10,000.00
Thomas Pike	10,000.00
J. D. Robinson	5,000.00
Robert Rowan	5,000.00
Henry Salvatori	10,000.00
Dana C. Smith	5,000.00
Edward R. Valentine	60,000.00
Mrs. Louie C. Valentine	7,000.00
United California Bank—interest	2,786.80
Total	214,786.80

Expenditures

(a) For the preparing, printing, circulating, and verifying of nomination papers and for the candidate's official filing fee: None.

(b) For the candidate's and campaign personnel's personal traveling expenses: $108,971.51.

(c) For rent, furnishing and maintaining headquarters, and halls and rooms for public meetings, including light, heat, and telephone: $60,934.10.

(d) For payment of personnel:

1. Campaign manager or managers.
2. Advertising agency or agencies and publicity agent or agents.
3. Stenographers and clerks.
4. Precinct workers.
5. Speakers.
6. Entertainers.
7. Payroll taxes.
8. Republican State Research Center: $341,972.34.

(e) For the preparing, printing, and posting of billboards, signs and posters: $112,141.81.

(f) For the preparing, printing, and distribution of literature by direct mail, including postage, throwaways, and handbills: $92,665.59.

(g) For newspaper advertising: $130,248.54.

(h) For radio and television advertising and speech time: $315,969.31.

(i) For office supplies, precinct lists, postage other than that provided for in subdivision (f), expressage, and telegraphing relative to candidacy: $29,333.12.

(j) For making canvasses of voters, and public opinion surveys: $5,000.00.

(k) For conveying voters to and from the polls: None.

(l) For supervising the registration of voters: None.

(m) For watching the polling and counting of votes cast: None.

(n) For photographs, mats, cuts, art work, and displays: $8,379.17.

(o) For petty cash items relative to candidacy. Various campaign office personnel as petty cash custodians: $1,523,66.

(q) Loans repaid, including interest: $214,786.89.

Total amount expended: $1,421,653.04.

I have used all reasonable diligence in the preparation of this statement and it is true and is as full and explicit as I am able to make it.*

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Executed by me at Los Angeles, California, this 10th day of December, 1962.

JOHN ROBERT WHITE.

*P.S. All bills received as of November 21, 1962, are reflected herein. However, it is believed that certain telephone and travel bills remain outstanding, receipt of which will necessitate the preparation of an amended statement of expenditures.

CHECK NO. 3837

NIXON FOR GOVERNOR,
FINANCE COMMITTEE,
Los Angeles, Calif., October 22, 1962.

Pay thirty five thousand and no/100 dollars ($35,000) to the order of Robinson & Company, Inc.

Date: June 18, 1963.

_____ _____.

Pay to the order of Crocker First National Bank of San Francisco, Robinson & Company, Inc.

COMMITTEE FOR THE PRESERVATION OF THE DEMOCRATIC PARTY IN CALIFORNIA,
Los Angeles, Calif., October 15, 1962.

DEAR FELLOW AMERICAN: The enclosed Poll will be self-explanatory. We believe you will agree this is one of the most important steps ever taken in California history in behalf of decent Government.

It is not an easy step to take. But this Committee deeply believes that not only one of our great political parties—but our State government—is seriously threatened by the takeover by left-wing forces abhorrent to those who know the facts. The facts are, The CDC (California Democratic Council), which has espoused:

Admitting Red China into the United Nations.

Moratorium on U.S. nuclear testing.

Allowing subversives to speak on college campuses.

Abolition of State and Federal loyalty oaths.

Abolition of the House Committee on Un-American Activities.

Foreign aid to countries with Communist governments.

Refusal to bar Communists from the Democratic Party—today is taking over and absorbing the State government of California.

This is no "splinter group." Though it is a small minority, the CDC is called "the most powerful political force in California" by thoughtful magazines and newspapers including the C. S. Monitor, by the Governor of California—and by itself. It has taken over the entire Democratic ticket for all State officers and presented them as its own candidates. Not one of whom has yet repudiated the organization's support.

The CDC's leaders refused at the last Democratic Convention to let the Party adopt a resolution to bar Communists from the Party organization—the last straw among people who simply don't want our State ruled by any organization whose objectives are foreign to most Americans!

Our voice is not as thunderous as the CDC's and even if we can make it heard only at election tme, then we will make it heard somehow. Will you help? Will you send a contribution today, in any amount you feel you can, to the Treasurer, Committee for the Preservation of the Democratic Party, Crocker Anglo National Bank, Main Branch, San Francisco. It will be utilized to get this message to Californians, and by this Poll, test their own feelings before it is too late. Please let us hear from you today. Thank you.

Sincerely,

WILLIAM MARLIN,
Executive Secretary.

COMMITTEE FOR THE PRESERVATION OF THE DEMOCRATIC PARTY IN CALIFORNIA,
Los Angeles, Calif., October 17, 1962.

DEAR FELLOW AMERICAN: The enclosed Poll will be self-explanatory. We believe you will agree this is one of the most important steps ever taken in California history in behalf of decent government.

This Committee deeply believes that not only one of our great political parties—but our State government—is seriously threatened by the take-over by left-wing forces. These are the facts: The CDC (California Democratic Council) has espoused:

Admitting Red China into the United Nations.

Moratorium on U.S. nuclear testing.

Allowing subversives to speak on college campuses.

Abolition of State and Federal loyalty oaths.

Abolition of the House Committee on Un-American Activities.

Foreign aid to countries with Communist governments.

Refusal to bar Communists from the Democratic Party—and today the CDC is taking

over and absorbing the State government of California.

Though it is still only a small minority, the CDC has been called "the most powerful political force in California" by thoughtful magazines and newspapers including the C.S. Monitor, by the Governor of California—and by itself. It has taken over the entire Democratic ticket for all State officers and presented them as its own candidates. Not one has yet repudiated the organization's support.

The CDC's leaders even refused at the last Democratic convention to let the Party adopt a resolution to bar Communists from the Party organization—the last straw among people who don't want our State ruled by any organization whose objectives are foreign to those of most Americans!

Some Republicans have commented that this move probably will result in electing a Republican ticket. This, as Democrats, we regret.

But if this is the only way we have of demonstrating that rank and file Democrats want their Party dedicated to the precepts of its founders—not those of left-wing minorities—then we are willing to make this sacrifice rather than have the left-wing cancer grow and spread.

Will you, as a citizen and as an American, help in this effort to block this left-wing take-over of California's political leadership? Will you send a contribution today to the Treasurer, Committee for the Preservation of the Democratic Party, Crocker-Anglo National Bank, 1 Montgomery Street, San Francisco. It will be utilized to get this Poll to California citizens and to test their feelings in this matter. Please let us hear from you today. With thanks.

Sincerely,

WILLIAM MARLIN,
Executive Secretary.

ROBINSON & CO., INC.,
San Francisco, September 19, 1962.

To: Nixon For Governor Campaign Committee, Los Angeles, California.

Attention: Robert Haldeman, Campaign Manager.

Statewide mailing to 900,000 Conservative Democrats; also handling and tabulating Poll:

900,000 Double Post Cards, addressed to conservative Democrats, one to a family, throughout California; 8½x11, printed two colors, stock as selected; prepaid third class postage on mail going out at 2½¢ each; prepaid postage on returns up to 10% of mailing at the rate of 6¢ each, first class postage; assort by cities, tie and mail per agreement dated September 12, 1962.

Total for complete mailing: $94,500.

We understand that there is a present shortage of funds which Mr. Haldeman feels probably will be corrected in the course of the work. Under the circumstances, however, in order not to incur any indebtedness beyond the ability of the campaign to pay, we will halt the job when we have completed the appeal to only ⅔ of the Conservative Democrats of the State, and have spent up to $60,000. At this point in the work, which will occur about October 5, we will check with Mr. Haldeman to determine the financial feasibility of completing the job before continuing.

COMMITTEE FOR THE PRESERVATION OF THE DEMOCRATIC PARTY IN CALIFORNIA,
Los Angeles, Calif., October 20, 1962.

First returns of a Poll being circulated to more than one hundred thousand Democrats throughout California indicate that:

Nine out of ten registered Democrats flatly reject the "ultra-liberal" California Democratic Council (CDC).

An even higher percentage—95 percent—believe that California "cannot afford to have a Governor who is indebted to the CDC."

These figures were reported today by the Committee for the Preservation of the Democratic Party in California, which is polling members of its own Party to test reaction "to the CDC's ultra-liberal philosophy and its domination of the Party."

According to William Marlin, Executive Secretary of the Committee: "First returns on this Poll of our own Party members indicate overwhelming and emphatic disenchantment with the left-wing CDC which for the past four years has been maneuvering to capture the Democratic Party in California, and with it State domination. The voice of the rank-and-file Democrat is now being heard, and that voice is speaking out loud and clear against the CDC and all it represents."

Marlin revealed the Committee is now extending the Poll to cover "many thousands of additional Democrats."

He states: "Financial support has been pouring in from all over the State, providing means of expanding our Poll, and permitting thousands of rank-and-file Democrats to express themselves on this imperative question.

"The CDC has loaded the Democratic ticket with its nominees, hand-picked at pre-primary conventions. And not one candidate has repudiated either the CDC's endorsement, or its left-wing objectives."

Marlin continues: "What effect our Poll will have on the election we are not certain. But it is very evident from the returns that rank-and-file Democrats are deeply concerned about the CDC and its increasing domination of our Party."

Marlin said the Committee will release further figures on the Poll later this week.

COMMITTEE FOR THE PRESERVATION OF THE DEMOCRATIC PARTY IN CALIFORNIA,
San Francisco, October 26, 1962.

Charging Democratic Party leader Roger Kent with acting as a "One-Man News Censor", the Committee for the Preservation of the Democratic Party in California today vigorously protested an injunction brought by Kent to "prevent public access to the results of one of the largest Polls ever undertaken in U.S. political history".

"As Americans to whom free speech is a God-given privilege, we find this political muzzling unbelievable, declared William Marlin, Executive Secretary of the Committee.

"The order Kent has obtained, prevents our Committee from releasing to the Press the results of a valid poll of some half-million registered Democrats in California, on their reactions to domination of the Party by the left-wing CDC (California Democratic Council).

"Every one of Kent's charges is completely false," Marlin stated, "and there is no valid basis for his dictator-like action. His sole objective is to prevent publication of a statewide poll of Democrats on how they feel about being dominated by a left-wing organization whose principles are foreign to most Americans!

"Kent has charged that our Committee is a front for Republicans. We have had offers of help from many sources—Republicans as well as Democrats—and are grateful for it. But every one of our members is a loyal and responsible Democrat whose single objective is to inform our fellow Democrats that left-wing forces are moving to capture the Democratic Party in California and with it the right to dictate the political direction and destiny of our State.

* * * * *

1. How are you being financed?

A. We have appealed to Democrats throughout the State, and so far their support has been most encouraging and helpful. An appeal has been sent to some 50,000 registered Democrats—along with a Poll on their reactions to the CDC. We are hopeful that we will receive enough financial support to expand this list to some one-million Democrats in California.

2. Are you receiving any Republican money?

A. We are not refusing any contribution—and naturally, the Republicans are interested in this campaign. We are considering extending our fund-appeal to Republicans, as we believe all citizens should be concerned with the power-grabbing strategy of the CDC.

3. Who makes up your Committee?

A. As everyone knows, the CDC is a powerful organization difficult to oppose. For this reason we plan on releasing the names of our Committee on a day-by-day basis as they make their statements—thus keeping the timing of these announcements at our discretion, rather than the CDC's. We believe that these names, as released, will come as quite a shock to the CDC—for these are prominent Democrats of responsible views and position.

4. Do you have any other offices?

A. We have two offices at the present—in San Francisco and in Los Angeles. (S.F.—Central Consular Building; L.A.—National Oil Building.)

5. What are your sources for the statements and proposals attributed to the CDC?

A. The CDC's own Convention Reports and records, and statements by CDC leaders as reported in the press.

6. Are you asking fellow Democrats to stay away from the polls?

A. No. We are urging them not to vote for CDC nominees on the Democratic ticket. The CDC has loaded our Party's ticket with their own nominees, chosen at pre-primary conventions. We consider these candidates "captured men", because even though the left-wing aims of the CDC are clear and are anathema to the majority of Americans, not one of these men has repudiated the CDC or its endorsement.

INTERGOVERNMENTAL RELATIONS SUBCOMMITTEE CONDUCTS HEARINGS ON PROPERTY TAXES

Mr. MUSKIE. Mr. President, during 3 days last week the Senate Subcommittee on Intergovernmental Relations conducted hearings on a subject which is of concern to a great many Americans these days—the need for property tax relief and reform.

Most of us are fairly familiar by now with the inequities and inefficiencies of the property tax system. Low income households frequently face a property tax burden far in excess of their ability to pay, and far greater, relative to their income, than that of higher income households. Administration of the property tax is hampered by a lack of qualified personnel and other resources, a fragmentation of taxing jurisdictions, and out-of-date State laws which made efficient use of the tax an impossibility.

In this initial round of hearings, we concentrated on these problems, as well as on the broader question of whether the Federal Government has any role to play in bringing about relief and reform. The focus of the hearings was legislation I introduced with Senator PERCY—S. 1255—which would provide a program of limited Federal assistance to those States which undertake specified measures of relief and reform.

In addition, 1 day of the hearings was devoted to specific problems raised by the use of mass appraisal firms by States and local taxing jurisdictions.

During these hearings, we heard testi-

mony from public officials at all levels of government, and from private citizens as well. Although there were differences of opinion as to how we should proceed, there was unanimous agreement that both relief and reform are urgently needed.

Because of the importance of this issue, I would like to bring to the attention of my colleagues some of the testimony offered at the hearings which clearly documents the need for action and which also outlines a number of the policy questions we are considering. I therefore request that the prepared statements of the following persons be inserted in the RECORD at this point: The Honorable Byron L. Dorgan, tax commissioner of North Dakota; Mr. John Shannon, Assistant Director of the Advisory Commission on Intergovernmental Relations; the Honorable Kenneth M. Curtis, Governor of Maine, on behalf of the Education Commission of the States; the Honorable Stenny Hoyer, State Senator from Maryland; Mr. Jonathan Rowe, of the Tax Reform Research Group; and Mr. Cyril Brickfield, legislative counsel for the American Association of Retired Persons and National Retired Teachers Association. In addition, I would like to ask unanimous consent to print in the RECORD articles from the Nashville Tennessean and the Nashville Banner concerning the testimony the subcommittee received on mass appraisal firms.

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

STATE OF NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER

(Testimony by Byron L. Dorgan, Tax Commissioner, State of North Dakota. Presented to—U.S. Senate Subcommittee on Intergovernmental Relations on Senate Bill 1255)

Mr. Chairman & Members of the Committee: My name is Byron L. Dorgan and I am Tax Commissioner for the State of North Dakota, a position I have held for nearly 4½ years. Because North Dakota is one of the few states in which the position of Tax Commissioner is an elective position, I, perhaps more than some other tax administrators, have made it my business to be aware of the concerns and frustrations of the taxpayers and to try and do something about them. As a man in political life and as a former instructor in economics, I have been constantly speaking out for basic reforms in our tax structure with special emphasis on real property tax reform.

As State Tax Commissioner, one of my duties is to exercise general supervision over the assessment practices in the State of North Dakota. North Dakota, a state with a population of 620,000 has nearly 1,800 property tax assessors. Of those 1,800 assessors, I would estimate that no more than 75 would pass a minimum qualification test for the position of property tax assessor if such an examination were mandatory. Despite this knowledge, and despite the fact that the property tax is the single largest tax in North Dakota, the North Dakota Legislature has consistently failed to enact legislation that would establish minimum qualifications for assessing personnel. The fragmentation of authority and the decentralization of the assessment structure spells disaster for those who are concerned about establishing good, professional assessment practices in our states.

I believe people can and should expect their government to be run in a businesslike manner and yet property tax administration in North Dakota and many other states would, by comparison, make the U.S. Postal System a model of business efficiency. We are, in many instances, using 18th Century management practices to assess a property tax that has grown to 21st Century proportions.

Many local governments insist on clinging to an assessment function they can no longer afford to perform well and state legislatures in many cases steadfastly refuse to enact the sweeping law changes necessary to make the property tax a professionally administered tax. Indeed, there is plenty of blame to go around. The track record of state taxing authorities (including myself) is not much better than that of a housekeeper in a dwelling that needs remodeling.

Published sales ratio studies, minimum qualifications for assessors, full disclosure of estimated market value to taxpayers, and adequate training programs for assessing personnel are but a few of the areas in which state and local governments are falling sadly short of the needed initiative to clean up the property tax mess.

A British economist named Adam Smith said 200 years ago that "there are only two things wrong with property tax: (1) It is indefensible in theory and (2) it is unworkable in practice." I believe Adam Smith overstated his case, but his second premise has proven to be partly true only because of the lack of resolve of public officials to do something about it. I believe that the property tax is a legitimate part of a governmental revenue system that utilizes income, consumption, and wealth as a basis for distributing its tax burden. Frankly, I believe that many public officials have treated property tax as the ugly sister of the tax family and have used the recent state Supreme Court decisions as an excuse to run away from the challenge of making a respectable lady out of the property tax.

It does not seem reasonable that we should totally abandon the property tax. If it is proper to tax what people earn and what people spend, then it seems equally proper to tax what people own. To leave untaxed the wealth of real property that people have accumulated would have a serious economic effect upon the free movement of real estate in the market.

One of the criteria of a "good" tax is its' relationship to benefits received. While it is equally true that all services relate to people, many of the services provided for by taxes, benefit people through the real property that they own. For example, a capital improvement such as a new school building in the neighborhood, a hard surfaced road by a farm, these make the real estate more valuable and hence are a proper charge against the property.

Property tax is here to stay and indeed it should be here to stay. I believe Senate Bill 1255 is an responsible approach toward solving some of the administrative problems in the property tax area.

I would like to address comments to two areas of Senate Bill 1255 and relate them to experience in North Dakota. First, Senate Bill 1255 in Title IV fosters a "right to know" concept. That is, citizens should be able to readily determine the estimated market value of their property as established by an assessor and relate that to assessments on surrounding property to determine whether they have been treated fairly. Nearly a year ago I was petitioned by a group of taxpayers to conduct an investigation of the assessment of farmland in Richland County, North Dakota. I assigned an investigative team from our Property Tax Division to review the assessments. We found that if you owned a quarter of farmland in Richland County, the same quality of land could have had 21 different pricing schedules attached to it and the price could have varied as much as 100%, depending on where it was located in that county. Needless to say, I ordered a supervised reappraisal of all of the farmland in Richland County. This is the first time in the history of the state that this has been done. If the "right to know" philosophy had prevailed in North Dakota assessment practices, it wouldn't have been necessary for the State Tax Commissioner to point out and document property tax inequities in Richland County. Citizens would have been able to compare their assessments to assessments on adjacent property without making a trip to the county courthouse and trying to interpret fractional assessments. They would have determined for themselves that those inequities existed. At that point they could have sought relief from their levels of local government through their Board of Equalization or through an application for abatement of property taxes.

Assuming the states would adopt the reforms contemplated in Title IV of this bill, Richland County taxpayers and others like them will have two distinct advantages in the future. First, they will know the market value estimate placed on their property by the assessor and they will be able to readily compare it to other properties in the county. Second, the appeal procedure will be revised in order that the taxpayer will be sure of a fair, impartial hearing on his property tax assessment. In many jurisdictions a taxpayer who feels he is overassessed must appeal to the local governing board for relief. This is the same governing board that has hired the assessor and will very likely support the assessor's estimate of market value. An analogy is the dilemma of a man who gets a speeding ticket and who shows up in court only to find that the presiding judge is the patrolman who issued him the ticket. Thus an adequate system of disseminating information to taxpayers and an improved system of appealing an unfair tax bill are two results that I think this legislation will encourage.

The second area that I would like to make comment on is Title III in Senate Bill 1255 which provides relief to property owners whose property tax bill represents an overburdening amount of their gross income. In North Dakota we have a law that allows limited property tax relief for low income senior citizens. Our law is not inclusive enough, but it is a start. Our state is one that is losing population and while many of our young people are moving out-of-state, older North Dakotans who have worked and lived in North Dakota all of their lives are spending their retirement years there. As our citizens reach retirement age, their income decreases and their property taxes continue to increase.

After these citizens have contributed through the income tax, sales tax and property tax all of their lives, they are finding that the home they struggled to pay for is being assessed a property tax that eats away 10, 20 and even 30% of their total income. The increasing property tax coupled with our current inflationary spiral is strangling the economic lives of many of our senior citizens.

Recently I received a letter from a lady in Flasher, North Dakota. She and her husband had managed over a 25 year period to completely pay for a home that she is very proud of. She is now 75 years old and her husband passed away four years ago. Her total gross income is $119 a month from all sources. She has not been able to pay the past two year's property tax bill and she cannot pay this year's property tax bill. This lady doesn't enjoy some of the government services that they do in other parts of the country. There is no dial-a-cab in Flasher. They don't even have meals on wheels, and even though North Dakota is full of intercontinental ballistic missiles we don't have adequate bus and train service to provide transportation to the senior citizen who so desperately needs it.

I'm sure there are millions of senior citizens and low income citizens in this country in the same predicament as the lady from Flasher. Many of them will go without adequate clothing, without adequate heat in

their homes and without adequate food and nourishment in order to pay their property tax bill and hang onto their most cherished possession, their home. We can and should do more for these people.

The problem isn't limited to just senior citizens, it also affects the small farmers who have a bad crop year, a Mom and Pop business that suffers a disastrous financial year, the low income residential home owner. Many of them need a pressure relief valve to prevent property taxes from spelling their personal economic disaster.

The legislation you have introduced, Mr. Chairman, will, I believe, entice state governments to adopt meaningful programs of property tax relief for those citizens who so desperately need it. The ability to pay theory is and always will be a sound economic theory for tax purposes. As a rule I think property ownership does relate to ability to pay, but there are many exceptions to that I believe this bill with the property tax relief feature provides the pressure relief valve that is necessary to prevent our property tax system from blowing up in our face in the coming years.

Senate Bill 1255 is a very measured response to an old plaguing problem. I have always been prepared to resist federal intervention in the property tax area. However, after studying your proposal I find that the type of limited federal help that this bill proposes represents the only meaningful way of encouraging local government to solve a problem that everyone has hoped would go away but won't.

In conclusion let me say that it is unfair if my remarks or those of other witnesses would paint with a black brush all of the efforts of property tax assessors in this country. In North Dakota, and I am sure in other parts of the country, we have some outstanding property tax administrators who I am very proud of. Also, it would be unfair to suggest that the failure of state legislatures to act is the sole cause of our property tax problems. The North Dakota legislature has enacted a law improving our appeal procedures and has just recently enacted a law requiring full disclosure of estimated market value on the property tax statement. So progress is being made, but it is not nearly rapid enough to attack those problems which are festering a tax revolt in this country.

Your legislation is substantial and will allow meaningful relief in our property tax system in the years to come. I will encourage North Dakota's Congressional delegation to support Senate Bill 1255. Senator Young, Senator Burdick and Congressman Andrews are interested, as I am, in an improved property tax system that responds to the needs and concerns of the people we serve.

Property Taxation: Reform and Relief
Comments on S. 1255

(By John Shannon)

Mr. Chairman, let me express the appreciation of the Advisory Commission on Intergovernmental Relations for this opportunity to testify on Senate Bill No. 1255, "The Property Tax Relief and Reform Act of 1973."

Mr. Chairman, as you well know, the Commission on a closely divided vote recently rejected the idea of even a limited role for the Federal Government in the area of property tax relief and reform. Because you took an active part in the debate, it is not necessary to recite for you the reasons that led the majority to recommend that the Federal Government pursue a "hands off" property tax policy. However, I do think both the majority and minority views should be placed in the record. Therefore, if there is no objection, I will append to my statement Chapter I of the Advisory Commission's report, Financing Schools and Property Tax Relief—A State Responsibility. This seven page chapter sets forth the policy considerations that underpinned both the majority's contention that the property tax should remain the exclusive policy concern of the States and the minority advocacy of a limited Federal role.

FIVE KEY QUESTIONS

In order to help assist the Senate Subcommittee with its property tax deliberations, I shall restrict my comments to answering five questions.

What is the current status of State effort to provide property tax relief for low and moderate income families?

What policy implications can Federal legislators draw from State property tax relief action?

If the Federal legislators become convinced that the National Government should encourage the States to move more quickly in the area of property tax relief and assessment reform, should the National Government condition its property tax relief grants on a showing that the States are making progress on the assessment reform front?

Can Federal incentive grants for property tax relief be designed in a way that will not unduly reward the States that force local governments to make relatively heavy use of the property tax and not shortchange those States that make relatively light use of the property tax?

If the National policymakers are convinced that they should encourage the States to pull the regressive stinger from the property tax, should they then take the next logical step and include the sales tax in their anti-regressivity program?

CURRENT STATUS OF STATE TAX RELIEF EFFORTS

The State "circuit-breaker" movement is now moving so rapidly that it is extremely difficult for the ACIR staff to keep up with the latest developments. Yesterday, for example, we were informed that the Michigan Legislature had just approved Governor Milliken's massive $250 million circuit-breaker plan designed to help every household in Michigan—the non-elderly as well as the elderly, the renters as well as the homeowners. For those under the age of 65, the relief comes in the form of a substantial rebate on that part of the residential tax that exceeds 3½ percent of household income. For the elderly low-income households, the Milliken plan provides even greater aid.

This major breakthrough in Michigan comes hard on the heels of last week's news that Vermont had also adopted a universal circuit-breaker albeit with a somewhat different formula. The significance of these two State actions is that they represent "Phase II" of the circuit-breaker movement characterized by virtually universal protection for all low and moderate income families and with an estimated per capita cost of approximately $25 in both cases.

In sharp contrast, the typical "Phase I" State circuit-breaker was restricted to low-income elderly households with per capita cost ranging from $1 to $5.

In order to give the Subcommittee some feel for the momentum of State action in this area, we have prepared a detailed tabulation of State property tax relief action and placed it in the Appendix—Tables 5 and 6. Even the most casual examination of these tables will establish beyond doubt that the States are now moving decisively in the property tax relief area but in most cases, they still have a long way to go before they reach the Michigan and Vermont protection standards. For example the current State effort can be summarized as follows:

48 States now either finance, mandate or authorize property tax relief for low-income elderly homeowners. There is strong likelihood that the two remaining States—Arizona and Missouri—will soon take remedial action in this area.

12 States now finance property tax relief for low-income elderly renters.

7 States now finance property tax relief for low and moderate income—non-elderly homeowners.

3 States now finance property tax relief for low-income renters under the age of 65.

The point must be emphasized that most of this remedial State action has taken place since 1970.

STATE TAX RELIEF ACTION—POLICY INFERENCES FOR THE CONGRESS

There are several policy inferences that can be drawn from the dramatic upsurge in property tax relief action since 1970.

First, State legislators are not buying the new economic doctrine that claims that the property tax is a truly progressive tax if properly administered nor are State legislators buying the correlative policy implication—that property tax relief for low-income families should receive rather low legislative priority. Our evidence supports the State legislators' intuitive judgments. As a tax on housing, the residential property tax can and does impose truly extraordinary burdens on low-income families, both elderly and non-elderly. This pattern holds true for the Nation as a whole and for each geographic region (See Tables 2, 3, and 4 in the Statistical Appendix).

Because the States are now making such significant progress in the property tax relief field, the question of Federal involvement in this area boils down to one question—should the Federal Government "hurry history along?" Those who believe that the National Government should assume an "activist" role will say yes and point to the fact that 48 States still fall short of the protection standards now set by Michigan and Vermont. On the other hand, the traditionalist will emphasize the natural historical evolution from narrow to broad-gauged State tax relief action and argue that as an irreducible minimum, Federal policymakers should allow the States at least three or four more years to place their property tax relief houses in order.

If Federal policymakers decide to support the "activist" position, it would seem that the interest of federalism would be served better by Federal underwriting and encouragement of State tax relief programs rather than by the creation of Federally administered tax relief programs. Underpinning this inference is the obvious fact that the State fiscal property largely determines the size of the local property tax rate. Therefore, the State, not the National Government, should be required to continue to play a primary role in underwriting local property tax relief.

If National Government policymakers decide to encourage the State to do more on the local property tax relief front, the Federal grant program should encourage the development of the "circuit-breaker" rather than the partial homestead exemption approach. The circuit-breaker is more efficient because it can maximize the local tax relief "bang" for the State expenditure "buck,"—the amount of State aid decreases as family income increases. In striking contrast, the typical partial homestead exemption approach does not diminish as family income rises. It is, therefore, a far less economical method for shielding family income from extraordinary property tax loads.

The great variations in State circuit-breaker formulas argue against Congressional imposition of a rigid "boiler plate" type formula along the lines of that set forth in Title III of S. 1255. It is obvious that those who drafted the tax relief formula in Title III did not want to have Federal dollars subsidize the partial homestead exemption plan. They, therefore, erred in the opposite direction by constructing such a tight list of qualifications as to exclude the two best State circuit-breaker programs—those of Vermont and Michigan.

I would recommend the deletion of the circuit-breaker formula now set forth in

Title III Subsection d and the substitution of a broad qualifying definition—a state-financed plan of residential property tax relief that phases out aid as family income rises.

FEDERAL TAX RELIEF AID LINKED TO STATE ASSESSMENT REFORM

Should the National Government condition its Federal tax relief grants to a State showing of assessment reform? It is quite understandable that frustrated property tax reformers would seize upon the popular tax relief issue as their "lever" for forcing States to reform their local property tax assessment systems.

I would recommend that the Subcommittee divorce the issue of property tax relief from that of assessment reform. Low-income families should not be used as the "hostages" by the Federal Government for effecting State assessment reforms. This "Federal stick" approach also reinforces the case of those who are opposed to any Federal involvement in the property tax area. They argue that once the Federal Government moves into the property tax area, there is the irresistible temptation to impose coercive guidelines on State and local officials.

There is also a certain practical objection to this plan for denying Federal property tax relief aid to States that fail to measure up to the reform guidelines set forth in Senate Bill 1255. It might be difficult for the Federal administrator to obtain sufficient political support for rigorous enforcement of this carrot and stick approach to the property tax.

INTERSTATE TAX EQUITY ISSUE

As presently written, S. 1255 tends to reward unduly those States that make relatively heavy use of the local property tax and shortchange those States (located primarily in the South) that make relatively light use of this levy. This defect can be removed by adopting a flat per capita grant procedure—for example all States with a qualified property tax relief program would receive $5 per capita.

SALES TAX ISSUE

It can be argued that if Federal policymakers desire to pull the regressive stinger from the State-local tax system, they should take the next logical step and include the sales tax in their anti-regressivity program.

This argument illustrates the difficulties inherent in designing at the National level an equitable and comprehensive property tax relief program. Many States, particularly those located in the South, for all practical purposes, use the sales tax as a substitute for the property tax.

Mr. Chairman, our staff has examined the fiscal effects of various Federal aid proposals designed to encourage the States to pull the regressive stinger from both the property and sales tax. If your Subcommittee is interested in pursuing this matter, we shall be pleased to make our research findings available to your staff.

Again, let me express our appreciation for having been given the opportunity to testify on S. 1255.

TABLE 1.—WHO PAYS THE LOCAL PROPERTY TAX?

[Estimated local property tax collections by source, 1972[1]]

Source	Amount (millions)	Percentage distribution
Nonbusiness:		
Nonfarm residential realty[2]	$19,023	47.3
Farm realty[3]	817	2.0
Vacant lots	320	.8
Total nonbusiness realty	20,160	50.1
Nonfarm personalty[4]	657	1.6
Farm personalty	113	.3
Total nonbusiness personalty	770	1.9
Total nonbusiness	20,930	52.1
Business:		
Farm realty[5]	$1,860	4.6
Vacant lots	480	1.2
Other realty[6]	9,170	22.8
Total business realty	11,510	28.6
Farm personalty[7]	454	1.1
Other personalty[8]	4,287	10.7
Total business personalty	4,741	11.8
Public utilities	3,019	7.5
Total business	19,270	47.9
Total	[9] 40,200	100.0

[1] ACIR staff estimates based on estimated 1972 collections distributed on basis of 1967 Census data, latest available statistics.
[2] Includes both single-family dwelling units and apartments. An estimated $14,000,000,000 or 36 percent of all local property taxes was derived from single-family homes: about $5,000,000,000 or 12 percent of property tax revenue came from multi-family units.
[3] Estimated collections from the taxation of the residential element of the farm.
[4] The collections produced through the taxation of furniture and other household effects.
[5] Estimated collections from the taxation of land and improvements actually used in the production of agricultural products—this is exclusive of the land and buildings used in a residential capacity by the farmer.
[6] Commercial and industrial real estate other than public utilities.
[7] The estimated collections from the taxation of livestock, tractors, etc.
[8] Estimated collections from the taxation of merchants' and manufacturers' inventory, tools and machinery, etc.
[9] This is the estimated grand total for local property tax receipts. In addition, there is an estimated $1,300,000,000 in State property taxes. The data needed for a similar distribution of State receipts is not available. However, it is estimated that approximately $450,000,000 of the State receipts are derived from general property taxes and could probably be distributed among the various sources of revenue in the same proportion as local receipts. The remaining $850,000,000 in State receipts consists mainly of State special property taxes on business personal property, but includes a substantial amount from special property taxes on motor vehicles, most of which is collected by the State of California.

Source: ACIR compilation.

TABLE 2.—REAL ESTATE TAXES AS A PERCENTAGE OF FAMILY INCOME, OWNER-OCCUPIED SINGLE-FAMILY HOMES, BY INCOME CLASS AND BY REGION, 1970

Family income[1]	United States, total	Northeast region	Northcentral region	South region	West region	Exhibit: number and distribution of homeowners: Number (thousands)	Exhibit: number and distribution of homeowners: Percent distribution[2]
Less than $2,000	16.6	30.8	18.0	8.2	22.9	1,718.8	5.5
$2,000 to $2,900	9.7	15.7	9.8	5.2	12.5	1,288.7	9.7
$3,000 to $3,900	7.7	13.1	7.7	4.3	8.7	1,397.8	14.1
$4,000 to $4,999	6.4	9.8	6.7	3.4	8.0	1,342.8	18.5
$5,000 to $5,999	5.5	9.3	5.7	2.9	6.5	1,365.1	22.8
$6,000 to $6,999	4.7	7.1	4.9	2.5	5.9	1,530.1	27.8
$7,000 to $9,999	4.2	6.2	4.2	2.2	5.0	5,377.4	45.0
$10,000 to $14,999	3.7	5.3	3.6	2.0	4.0	8,910.3	73.6
$15,000 to $24,999	3.3	4.6	3.1	2.0	3.4	6,365.6	94.0
$25,000 or more	2.9	3.9	2.7	1.7	2.9	1,876.9	100.0
All incomes	[3] 4.9	[3] 6.9	[3] 5.1	[3] 2.9	[3] 5.4	31,144.7	

[1] Census definition of income (income from all sources). Income reported was received in 1970.
[2] Cumulated from lowest income class.
[3] Arithmetic mean.

Source: U.S. Bureau of the Census, "Residential Finance Survey, 1970" (conducted in 1971), special tabulations prepared for the Advisory Commission on Intergovernmental Relations. Real estate tax data were compiled for properties acquired prior to 1970 and represent taxes paid during 1970.

ABLE 3.—REAL ESTATE TAXES AS A PERCENTAGE OF FAMILY INCOME, OWNER-OCCUPIED SINGLE-FAMILY HOMES, HOMEOWNERS AGE 65 AND OVER, BY INCOME CLASS AND BY REGION, 197

Family income[1]	United States, total	Northeast region	Northcentral region	South region	West region	Exhibit number and distribution of homeowners age 65 and over: Number (thousands)	Exhibit number and distribution of homeowners age 65 and over: Percent distribution[2]
Less than $2,000	15.8	29.3	16.6	7.8	21.5	1,280.8	20.3
$2,000 to $2,999	9.5	14.4	9.3	5.3	11.5	906.1	34.7
$3,000 to $3,999	8.0	11.9	7.6	5.3	8.5	825.9	47.9
$4,000 to $4,999	7.3	10.6	7.2	3.7	8.7	651.6	58.2
$5,000 to $5,999	6.2	9.6	6.1	3.5	6.5	437.5	65.2
$6,000 to $6,999	5.8	7.7	6.1	3.4	6.1	388.8	71.3
$7,000 to $9,999	4.8	6.5	5.3	2.5	5.7	714.7	82.7

Family income [1]	United States, total	Northeast region	Northcentral region	South region	West region	Exhibit number and distribution of homeowners age 65 and over: Number (thousands)	Exhibit number and distribution of homeowners age 65 and over: Percent distribution [2]
$10,000 to $14,999	3.9	5.4	3.9	2.4	4.1	565.7	91.7
$15,000 to $24,999	3.3	4.7	3.3	2.1	3.3	339.5	97.1
$25,000 or more	2.7	3.2	2.9	1.8	3.0	183.4	100.0
All incomes	[3] 8.1	[3] 11.4	[3] 8.6	[3] 4.7	[3] 9.1	6,294.0	

[1] Census definition of income (income from all sources). Income reported received in 1970.
[2] Cumulated from lowest family income class.
[3] Arithmetic mean.

Source: U.S. Bureau of the Census, "Residential Finance Survey, 1970" (conducted in 1971), special tabulations prepared for the Advisory Commission on Intergovernmental Relations. Real estate tax data were compiled for properties acquired prior to 1970 and represent taxes paid during 1970.

TABLE 4.—REAL ESTATE TAXES AS A PERCENTAGE OF FAMILY INCOME FOR ELDERLY AND NONELDERLY SINGLE-FAMILY HOMEOWNERS, BY INCOME CLASS, 1970

Family income [1]	Real estate tax as a percent of family income: Elderly (age 65 and over)	Real estate tax as a percent of family income: Nonelderly (under 65)	Exhibit: Number of homeowners (thousands): Total	Elderly: Number	Elderly: Percent of total	Nonelderly: Number	Nonelderly: Percent of total
Less than $2,000	15.8	18.9	1,719	1,281	74.5	438	25.5
$2,000 to $2,999	9.5	10.1	1,289	906	70.3	383	29.7
$3,000 to $3,999	8.0	7.2	1,398	826	59.1	572	40.9
$4,000 to $4,999	7.3	5.5	1,343	652	48.6	691	51.4
$5,000 to $5,999	6.2	5.1	1,365	437	32.0	928	68.0
$6,000 to $6,999	5.8	4.3	1,530	389	25.4	1,141	74.6
$7,000 to $9,999	4.8	4.1	5,377	715	13.3	4,663	86.7
$10,000 to $14,999	3.9	3.7	8,910	566	6.4	8,345	93.6
$15,000 to $24,999	3.3	3.3	6,337	340	5.4	5,997	94.6
$25,000 or more	2.7	2.9	1,877	183	9.8	1,694	90.2
All incomes	[2] 8.5	[2] 4.1	31,545	6,294	20.2	24,851	79.8

[1] Census definition of income (income from all sources). Income reported received in 1970.
[2] Arithmetic mean.

Source: U.S. Bureau of the Census, "Residential Finance Survey, 1970" (conducted in 1971), special tabulations prepared for the Advisory Commission on Intergovernmental Relations. Real estate tax data were compiled for properties acquired prior to 1970 and represent taxes paid during 1970.

TABLE 5.—PROPERTY TAX RELIEF FOR THE ELDERLY A GROWING STATE CONCERN, AS OF MAR. 1, 1973

State, financed by	Date of adoption	Description of beneficiaries (estimated number of claimants)	Income ceiling	Tax relief formula (or general remarks)	Form of relief (estimated per capita cost)
Alabama: State (exemption applies to State taxes only).	1971	Homeowners 65 and over (NA)	None	The $2,000 general exemption of assessed value is increased to $5,000 for homeowners, 65 and over, for State ad valorem taxes only.	Reduction in tax bill (NA).
Alaska: State	1972	Homeowners 65 and over (1,000)	$10,000	Total exemption	No tax liability ($1.54).
Arizona: Program under active legislative consideration.					
Arkansas: State (circuit breaker)	1973	Homeowners 65 and over (90,000).	$5,500	Relief ranges from maximum of $400 for income below $1,500 to $175 for income to $5,500, on graduated scale.	State income tax credit or rebate ($1.39).
California:					
State (circuit breaker)	1967, 1972 rev	Homeowners 62 and over (292,999) all renters.	$10,000 net $20,000 gross.	Relief ranges from 96 percent of tax payment on first $7,500 of value if net household income is less than $1,400 to 4 percent of tax payment if net household income is $10,000 (in addition to homestead exemption of $1,750).	State rebate only ($2.93).
State	1972	(NA)	None	Relief ranges from $25 if adjusted gross income is less than $5,000 to $45 on income of $8,000 and over.	State income tax credit or rebate (NA).
Colorado: State (circuit breaker)	1971, 1972, rev	Homeowners and renters age 65 and over (11,000).	$2,400 single, $3,700 married (net) worth less than $20,000).	Relief limited to 50 percent of the tax payment and cannot exceed $250. The credit or refund is reduced by 10 percent of income over $500 for individuals and 10 percent of income over $1,80C for husband and wife. (10 percent or rent=tax equivalent).	State income tax credit or rebate ($0.32).
Connecticut: State	1965	Homeowners 65 and over (NA)	$3,000 single, $5,000 married.	Exemption of $1,000 assessed value [also a tax freeze as of year of qualification].	Reduction in tax bill ($2.27).
Delaware:					
Localities (mandated)	1965, 1967 rev	Homeowners 65 and over (NA)	$3,000	Exemption of $5,000 assessed value from State or County property taxes.	Reduction in tax bill (NA).
Localities (optional)	1969, 1970 rev	Homeowners 65 and over (NA)	$3,000	Exemption of $5,000 assessed value from municipal property tax.	Reduction in tax bill (NA).
Florida: State	1971	Homeowners 65 and over (362,000).	None	The general homestead exemption of $5,000 for all homeowners is increased to $10,000 for homeowners 65 and over for taxes levied by district school boards for current operating purposes.	Reduction in tax bill ($1.47).
Georgia:					
Localities (mandated)	1964, 1972 rev	Homeowners 65 and over (100,000).	$4,000	Exemption of $4,000 assessed value from State and county property taxes.	Reduction in tax bill ($1.48).
Localities (mandated)	1972	Homeowners 62 and over (NA)	$6,000	Exemption of ad valorem taxes for educational purposes levied on behalf of school districts.	Reduction in tax bill (NA).
Hawaii: Localities (mandated)	1969, 1972 rev	Homeowners 60 and over (180,000).	None	Exemption of $16,000 of assessed value for homeowners age 60 to 69. Exemption of $20,000 of assessed value for homeowners age 70 or more.	Reduction in tax bill ($4.40).
Idaho: Localities (mandated)	1969, 1971 rev	Homeowners 65 and over (NA)	$4,800 (value of property not to exceed $15,000).	Elderly homeowners are exempt from property tax up to $75.	Reduction in tax bill ($0.72).

TABLE 5.—PROPERTY TAX RELIEF FOR THE ELDERLY A GROWING STATE CONCERN, AS OF MAR. 1, 1973—Continued

State, financed by	Date of adoption	Description of beneficiaries (estimated number of claimants)	Income ceiling	Tax relief formula (or general remarks)	Form of relief (estimated per capita cost)
Illinois:					
State (circuit breaker)	1972	Homeowners and renters age 65 and older or disabled (290,000).	$10,000 implicit	Relief based on amount by which property tax (or rent constituting property tax) exceeds 6 percent of household income for that year on the amount of such income between zero and $3,000 plus 7 percent on that amount in excess of $3,000. Relief limit is $500 less 5 percent of household income. (25 percent of rent = tax equivalent.)	Direct rebate ($2.58).
Localities (mandated)	1971	Homeowners 65 and over (NA).	None	Maximum reduction of $1,500 from assessed value.	Reduction in tax bill (NA).
Indiana: Localities (mandated)	1957, 1971 rev.	Homeowners 65 and over (80,000).	$6,000 (realty value not in excess of $6,500).	Exemption of $1,000 assessed value	Reduction in tax bill ($1.59).
Iowa: State	1967, 1971 rev.	Homeowners 65 and over or totally disabled (NA).	$4,000	Deduction from tax bill of $125 or amount of tax liability whichever is less.	Reduction in tax bill ($2.71).
Kansas: State (circuit breaker)	1970, 1972 rev.	Homeowners 65 and over (NA).	$6,000	Similar to Wisconsin but with different percentages. Limitation on amount of property tax liability considered for relief is $330.	State income tax credit or rebate ($2.88).
Kentucky: Localities (mandated)	1971	Homeowners 65 and over (125,000).	None	Exemption of $6,500 assessed value, except for assessment for special benefits.	Reduction in tax bill ($3.12).
Louisiana: A general homestead exemption of $2,000 for all homeowners with a reimbursement to local government.					
Maine: State (circuit breaker)	1971	Homeowners and renters age 65 and older for males, 62 and older for females (16,000).	$4,000 (in addition net assets must not exceed $30,000).	Relief equal to 7 percent of the difference between household income and $4,000. Limited to the total property tax levied. (20 percent of rent=tax equivalent) (at least 35 percent of household income must be attributable to claimant).	State rebate only ($1.60).
Maryland:					
Localities (mandated)	1967, 1969 rev.	Homeowners 65 and over (61,000).	$5,000	Credit of 50 percent of assessed value or $4,000, whichever is less, multiplied by the local property tax rate.	Reduction in tax bill ($1.81).
Localities (optional)	1968, 1972 rev.	Homeowners 65 and over (females 62 and over in Cecil County).	Varies by county	Relief varies from an increase in the credit provided by the State mandated law to a lessening or modification of conditions of eligibility for such credit.	Reduction in tax bill (NA).
Massachusetts: Localities (mandated)	1963, 1971 rev.	Homeowners 70 and over (74,000).	$6,000 single $7,000 married (maximum estate: $40,000 single, $45,000 married).	Exemption of $4,000 assessed value or the sum of $350, whichever would result in an abatement of the greater amount of taxes due.	Reduction in tax bill ($5.18).
Michigan: State	1965, 1970 rev.	Homeowners 65 and over (220,000).	$6,000	Exemption of $2,500 State equalized value	Reduction in tax bill ($3.06).
Minnesota: State (circuit breaker)	1967, 1971 rev.	Homeowners and renters 65 and over (95,000).	$5,000	A percentage of tax is given back as a credit, percentage declines as income increases. Not more than $800 tax considered. (20 percent of rent=tax equivalent).	State income tax credit or rebate ($2.38).
Missouri: (A constitutional amendment was approved in November 1972 to allow property tax relief by means of either a homestead exemption or a tax credit, to require that the State must reimburse the local government for any loss of revenue, and to permit such relief plans to include renters.)					
Mississippi: State finances a partial homestead exemption of $5,000 for all homeowners with a reimbursement to local governments.					
Montana: Localities (mandated)	1969, 1971 rev.	Retired homeowners (NA).	$4,000 single, $5,200 married.	50 percent reduction	Reduction of tax bill ($1.39).
Nebraska: State	1972	Homeowners 65 and over (60,000).	$2,800 single, $3,550 married, $4,300 married and spouse over 65.	Reduction of tax by 25 percent (maximum $125) in 1973 and by 50 percent (maximum $250) in 1974.	Reduction of tax bill ($4.41).
Nevada: New program				See table 6.	
New Hampshire: Localities (optional)	1969	Homeowners 70 and over (9,300).	$4,000 single, $5,000 married ($25,000 asset test).	Equalized valuation reduced by $5,000 times the local assessment ratio.	Reduction of tax bill ($1.99).
New Jersey: State 50 percent, localities 50 percent (mandated).	1953, 1972 rev.	Homeowners 65 and over (163,000).	$5,000 (excluding social security).	Reduction of tax bill by $160, but not more than amount of tax.	Reduction of tax bill (½ reimbursed by State) ($3.50).
New Mexico: State (circuit breaker)	1972	All persons (70,000)	$6,000	Person receives credit based on all State-local taxes which he is presumed to have paid. Credit varies depending on income and number of personal.	State income tax credit or rebate ($1.88).
New York:					
Localities (optional)	1972	Renters in rent controlled housing, 62 and over (NA).	$3,000 (can be raised to $5,000 by locality).	Not to exceed amount by which maximum rent exceeds one-third of combined household income.	Reduction of maximum rent (NA).
Localities (optional)	1966, 1972 rev.	Homeowners 65 and over (82,000).	$3,000 (can be raised to $6,000 by locality).	Assessed valuation reduced by 50 percent	Reduction of tax bill ($1.14).
North Carolina:					
Localities (mandated)	1971	Homeowners 65 and over (retired) (19,000)	$3,500	Assessed valuation reduced by $5,000	Reduction of tax bill ($0.16).
North Dakota: Localities (mandated)	1969	Homeowners 65 and over (5,000).	$3,000	Assessed valuation reduced by $1,000 or 50 percent, whichever is less.	Reduction in tax bill ($0.47).
Ohio: State (circuit breaker)	1971, 1972 rev.	Homeowners 65 and over (NA).	$8,000	Benefits range from reduction of 70 percent or $5,000 assessed value (whichever is less) for incomes below $2,000 to 40 percent or $2,000 for incomes above $6,000.	Reduction of tax bill ($2.78).
Oklahoma: Homestead exemption of $1,000 of assessed value for all homeowners is mandated by State. No reimbursement to local government.					
Oregon: State (circuit breaker)	1971	All homeowners (100,000)	None	Relief based on amount by which property taxes exceed percentage of income ranging from 3 percent on income below $1,500 (max. relief $400) to 7 percent for income above $8,000 (max. $100).	Reduction of tax bill (reimbursed) or tax credit ($7.80).
Pennsylvania: State (circuit breaker)	1971	Homeowners 65 and over; widows 50 and over; totally disabled (264,000).	$7,500	100 percent of tax for income less than $1,000 (max. rebate $200). 10 percent of tax for income greater than $6,000.	State rebate ($2.30).

State, financed by	Date of adoption	Description of beneficiaries (estimated number of claimants)	Income ceiling	Tax relief formula (or general remarks)	Form of relief (estimated per capita cost)
Rhode Island: Localities (optional)	1960, 1972 rev.	Homeowners 65 and over (19,000).	$4,000 ($5,000 in 1 locality).	Various formulas; most reduce assessed valuation by $1,000. [Also a tax freeze.]	Reduction in tax bill ($1.02).
South Carolina: State	1971	Homeowners 65 and over (78,000).	None	Not related to income. Assessed valuation reduced by $5,000.	Reduction in tax bill ($1.31).
South Dakota: Localities (mandated)	1972	Homeowners 65 and over (NA).	$4,000 married $2,400.	Assessed valuation reduced by $1,000	Reduction in tax bill ($5.15).
Tennessee: State	1972	Homeowners 65 and over (81,000).	$4,800	Equivalent to reduction of assessment by $5,000	State rebate to taxpayer ($0.74).
Texas: Localities (optional)	1972	Homeowners 65 and over (NA).	None	Assessment reduced by $3,000	Reduction in tax bill ($4.29) ($4.29).
Utah: Localities (optional)	1967, 1969 rev.	Indigent homeowners (presumed to be 65 and over) (NA).	$2,500 single, $3,000 married.	Taxes may be reduced by $50 or 50 percent, whichever is less.	Reduction in tax bill ($0.16).
Vermont: State (circuit-breaker)	1969, 1971 rev.	Homeowners and renters 65 and over (3,600).	$4,286 implicit	Taxes in excess of 7 percent of income, adjusted by local rate factor. Not more than $300 tax considered for relief. (30 percent of rent = tax equivalent).	State income tax credit or rebate ($0.88).
Virginia: Localities (optional)	1971, 1972 rev.	Homeowners 65 and over (NA).	$7,500 ($20,000 asset test).	At discretion of locality	Reduction in tax bill ($0.13).
Washington: Localities (mandated)	1971, 1972 rev.	Homeowners 62 and over, or disabled (72,000).	$6,000	Income—Percentage of excess levies abated. $0 to $4,000, 100 percent; $4,000 to $6,000, 50 percent (minimum relief of $50 for income below $4,000).	Reduction in tax bill ($1.81).
West Virginia: State (circuit breaker)	1972	Homeowners and renters 65 and over (NA).	$5,000	Relief based on ratio of property tax to household income. Taxes exceeding a given percent of income is remitted. These percents range from .5 percent to 4.5 percent not more than $125 tax considered for relief. (12 percent of rent=tax equivalent.)	Direct State payment ($0.84).
Wisconsin: State (circuit breaker)	1964, 1971 rev.	Homeowners and renters 62 and over (79,000).	$5,000	Income—Tax burden excessive when exceeding following percents of household income (cumulative rates). $0 to $1,000, 0; $1,000 to $1,500, 5 percent; $1,500 to $2,000, 10 percent; $2,000 to $5,000, 14 percent. Not more than $500 tax considered for relief. (25 percent of rent=tax equivalent).	Percent of excessive burden relieved, 75, 60, 60, 60. State income tax credit or rebate ($2.21).
Wyoming: State	1973	Homeowners 65 and over (2,000).	$2,000 single, $2,500 married.	Exemption of $1,000 assessed value	Reduction in tax bill ($1.16).
District of Columbia: Plan under active congressional consideration.					

NA—Data not available.
Circuit breaker—A state financed program of property tax relief in which the amount of tax relief phases out as household income rises.
"Rev." indicates the year of the most recent liberalization of the above property tax relief program.

Source: ACIR Staff compilation based on Commerce Clearing House, State Tax Reporter, State of Washington, Department of Revenue, Property Tax Relief in Washington, October, 1972, and telephone and letter survey of the various States.

TABLE 6 (SUPPLEMENT TO TABLE 5).—NEW PROGRAMS (ENACTED BETWEEN MAR. 2 AND MAY 2, 1973)

State, financed by	Date of adoption	Description of beneficiaries (estimated number of claimants)	Income ceiling	Tax relief formula (or general remarks)	Form of relief (estimated per capita cost)
Vermont (major extension of old program): State (circuit-breaker).	1973 rev.	All homeowners and renters (60,000).	None	Income and tax excessive when exceeding following percent of income: 0 to $3,999—4 percent; $4,000 to $7,999—4.5 percent; $8,000 to $11,999—5 percent; $12,000 to $15,999—5.5 percent; $16,000—6 percent; maximum relief is $500. (20 percent of rent = tax equivalent.)	State rebate (or income tax credit for elderly) ($23.38).
Indiana: State (circuit-breaker)	1973	Homeowners and renters, 65 and over.	$5,000	Relief ranges from 75 percent of property tax for incomes below $500 to 10 percent for incomes above $4,000. Limitation on amount of property tax liability considered for relief is $500. (20 percent of rent = tax equivalent, [15 percent if furnished or utilities provided]).	State income tax credit or rebate.
North Dakota: State (circuit-breaker)	1973	Renters 65 and over	$3,500	Property tax in excess of 5 percent of income is refunded. (20 percent of rent = tax equivalent.) Maximum relief is $350.	State rebate.
Nevada: State (circuit-breaker)	1973	Homeowners and renters, 62 and over (13,000).	$5,000	Property tax in excess of 7 percent is refunded. (15 percent of rent = property tax equivalent.) Maximum relief is $350.	State rebate ($1.42).
Michigan (replaces previous elderly homestead relief): State (circuit-breaker).	1973	All homeowners and renters	None	Excess taxes are taxes above 3.5 percent of income [various lower percentages for elderly with income below $6,000]. Credit = 60 percent of excess taxes [100 percent for all elderly]. Maximum relief is $500. [17 percent of rent = property tax equivalent].	State income tax credit or rebate ($27.53).

[Reprinted from Financing Schools and Property Tax Relief—A State Responsibility, Report in Brief. ACIR Report A–40. January 1973.]

POLICY CONSIDERATIONS AND RECOMMENDATIONS

In response to President Nixon's request of January 20, 1972, the Advisory Commission on Intergovernmental Relations conducted a study of a proposal for a major Federal program of residential property tax relief conditioned on State assumption of most of the cost of financing local schools and underpinned by a new or expanded Federal tax such as a value-added levy. This proposal was designed to deal with two interrelated problems—growing public resistance in many areas to higher property taxes and the current legal attack on heavy reliance on the local property tax as the primary source of funding local schools.

Before this Commission completed its investigation it considered four separate proposals for Federal entry into the property tax-school finance fields. Specifically, the Commission considered the need and the desirability of both a major and a limited Federal property tax relief action. The Commission also considered the desirability of a Federal aid program designed to hurry history along on property tax assessment reform. Finally, the Commission evaluated a proposal that called for a temporary and limited Federal incentive program designed to encourage the States to reduce fiscal disparities among school districts within each State.

CRITERIA FOR NATIONAL GOVERNMENT INVOLVEMENT

These proposals raised a critical intergovernmental issue—what criteria or tests should the Commission employ in order to evaluate the merits of proposals that call on the National Government to take remedial action in areas where the States have had exclusive policy responsibility? It is necessary to raise this hard question for several reasons.

With each passing day it appears easier to justify or at least rationalize a Federal "spillover" interest in areas for traditional State-local concern. Witness the proliferation of Federal categorical aid programs, which have grown in number from a handful ten years ago to well over 500 now.

In urging Congressional enactment of rev-

enue sharing legislation, this Commission recently noted that heavy reliance on the narrow categorical aid approach had tipped the power scales in favor of the National Government:

"The Congress is now dangling almost 500 large and small conditional aid carrots collectively worth more than $25 billion a year before State and local governments. The hope was that each conditional aid would provide sufficient financial incentive to spur the States and localities on to greater action in some more or less narrowly defined field of "National interest." But there is overwhelming evidence that State and local governments cannot readily absorb such a large number of diverse programs over restricted periods of time . . .

"Progressive loss of freedom of choice, therefore, is an additional price that must be paid by all State and local jurisdictions for categorical aid dollars. Professor Walter Heller, both a keen student of our intergovernmental fiscal system and a prominent member of the liberal establishment, has pointed up the dangers of this trend toward centralized power. "Unless this trend is reversed," he wrote, "Federal aids may weave a web of particularism, complexity, and Federal direction which will significantly inhibit a State's freedom of movement." The illusion of Congressional "control" has in reality disappeared into the dark jungles of bureaucratic redtape.[1]

The uneconomical allocation of public sector funds is an additional price that often must be paid for Federal categorical aid. A public service (or tax relief program) at some nationwide level may be perceived as good national policy but when extended uniformly across the country is extremely costly and often represents the solution to a problem that is not universal. Furthermore, the high cost of providing national solutions in a nation of diverse regional and local attitudes and needs results in expanding the public sector, thus raising questions concerning its appropriate relationship to the private sector.

DETERMINATION OF NATIONAL INTEREST—TWO TESTS

If our federal system is to retain its integrity it is not enough for Congress to build greater flexibility into its present aid system by means of general revenue sharing and the consolidation of narrow categorical aid programs into broader and more manageable block grants. Congress should also scrutinize closely all demands for the enactment of new Federal categorical aid programs.

In evaluating each of the four proposals that called on the National Government to move into an area that heretofore had been the exclusive domain of State governments, this Commission employed two tests to determine whether the proposal could be justified on the grounds of a strong National Government interest.

The problem that precipitated the demand for Federal intervention stems from a head-on conflict—a serious undercutting of a major Federal program objective by policies of most States.

The intergovernmental conflict can be resolved only by Federal Government action.

The "irreconcilable conflict" test for detecting the presence or absence of a strong national interest is so rigorous that it screens out all but the most persuasive proposals for new Federal initiatives in areas of traditional State-local concern. It is necessary to use this rigorous test in order to check or at least slow down the steady growth of Federal categorical aid. Simply to allege that a specific categorical aid proposal will "promote the general welfare" does not sufficiently justify its adoption on the basis of a strong national interest.

Footnotes at end of article.

THE MAJOR PROPERTY TAX RELIEF ISSUE

The Commission was asked among other things to evaluate a proposal that had two major objectives:

To cut the average residential property tax (approximately 50 per cent) by removing that part of the property tax that underwrites a local school operation.

To eliminate fiscal disparities among school districts in each State by encouraging the States to assume most of the cost of financing public elementary and secondary schools.

In order to accomplish these two objectives, the plan called for a Federal value-added tax designed to yield $18 billion the first year. Part of this revenue yield—approximately $5 to $6 billion—would be set aside to underwrite a system of personal income tax credits and rebates thereby removing the regressivity of the value-added tax for most taxpayers.

The remaining $12 to $13 billion was to be distributed by the Federal Government to the States for the support of public secondary and elementary education *provided* the States agreed to remove the local school tax on residential and nonresidential property and also agreed to refrain from levying a State tax on residential property for the support of local schools.

After a thorough examination of this proposal and the issues raised by it, this Commission concluded that a massive Federal effort designed both to cut the residential property tax substantially throughout the country and to encourage States to assume most of the cost for financing local schools was neither necessary nor desirable.

This negative conclusion is based on the following findings.

While there is clear evidence that some segments of the population—especially the low-income elderly are seriously burdened by the property tax, the evidence does not support the need for a Federal program designed to reduce substantially the property tax of every homeowner in the nation.[2] The simplest illustration of this lack of evidence to support general property tax reduction is that use of the property tax ranges in intensity from $39 per capita in Alabama to $262 per capita in California.

Although there are areas of the country where the property taxes are burdensome, not all homeowners, even in the high property tax jurisdictions, are overburdened by this levy. In some areas State and local income and sales taxes now take a larger bite out of the budgets of the families with average incomes than does the residential property tax and in most areas State and local income and sales taxes are growing at a faster rate than is the property tax. The Social Security tax now places a heavier burden on the average family than does the residential property tax while the Federal income tax is nearly three times as burdensome.

Most significantly, our study fails to reveal a strong national interest in a program designed to provide across-the-board tax reduction for every homeowner in the United States. Specifically, there is no evidence to suggest that a massive residential property tax program is necessary to protect a vital Federal interest, nor can it be demonstrated that the relatively high property taxes imposed by States such as New Jersey and New Hampshire cause serious economic harm beyond their boundaries.

It would also be extremely difficult to develop a Federal program capable of distributing tax relief equitably across the nation. The tremendous variations in the use of the property tax would create unequal windfalls both between jurisdictions and among various classes of property owners within the same jurisdiction. The so-called urban land speculators would be twice blessed by a major property tax reduction. First, the vacant land, like all taxable realty, would have more value in the market, and second, the cash cost of holding land off the market would be sharply reduced. Moreover, a proposal that stresses residential property tax relief but not business property tax relief might influence States to place heavier tax burdens on business property.

A multi-billion dollar Federal program of tax relief-school finance cannot be justified on the grounds that States lack the fiscal capacity necessary to place their local school districts on an equal fiscal footing. Our analysis reveals that only a few States would experience fiscal difficulty in bringing per-pupil expenditures to the relatively high levels needed to comply with the principle enunciated in *Serrano v. Priest*, the California Supreme Court decision that first demanded equalization of school district fiscal resources. The great majority of States have the necessary untapped relative tax potential. New York, Vermont and Wisconsin, however, stand out as the States that would experience greatest fiscal difficulty because of their current heavy use of all State and local taxes.

In order to construct a truly effective property tax relief program, Congress would have to exercise unprecedented Federal control over both State and local tax policymakers. Not only would the National Government have to force the States to refrain from use of a tax on residential property for school purposes, it would have to go further and encourage the States to place specific restraints on local government so as to prevent cities and counties from moving into the property tax area vacated by the schoolmen.

The prospect for State-financed property tax relief is not entirely bleak. For example, late in 1972 California enacted a $1.1 billion property tax relief-school finance reform program financed in part with Federal revenue sharing funds and in part through more intensive use of non-property taxes. Governors in ten other States were reported to favor the use of revenue sharing funds for property tax relief.

In the final analysis, however, "property tax relief" is something of an illusion because it requires either a reduction of public service or a shift to other forms of taxation—intensified use of income or general sales taxes or the imposition of a new tax such as the value-added levy.

Early in 1972 ACIR conducted a public opinion survey that indicated widespread agreement on the proposition that the property tax was the worst tax; but there was far less agreement on what the National Government should do about it. Fourteen percent of the population favored an income tax substitute; 32 percent favored a consumer tax substitute (VAT); 44 percent opposed either the Federal income or consumer tax substitute; and 10 percent couldn't make up their mind.

The Commission concludes that the interests of our federal system are best served when States retain primary responsibility for shaping policies dealing with general property tax relief and intrastate equalization of school finances—two areas that traditionally have been within the exclusive domain of State policy-makers.

LIMITED PROPERTY TAX RELIEF ISSUE

This Commission considered a proposal for the National Government to provide an incentive grant to the States designed to encourage them to provide limited property tax relief to low-income homeowners and renters.

The majority of the Commission members rejected this proposal because it could not meet both national interests tests. Admittedly, there is considerable evidence to support the contention that this particular Federal aid proposal could pass the first test because to date most States have not shielded low-income homeowners and renters from property tax overload situations. This

State failure, in turn, clearly undercuts a major national program objective of income support especially through the Social Security system. In the view of the majority of the Commission, however, the proposal failed to meet the second national interest test—that only Federal action could resolve this intergovernmental conflict.

The Commission reaffirms its 1967 recommendation that States shield basic family income from undue burdens imposed by the property tax.

Given a few more years, there is reason to believe that the States will resolve the problem of property tax overburden especially for the low-income elderly. This rather optimistic assessment rests on the fact that the "circuit-breaker" idea has such basic popular appeal that it should be adopted in those States where it is most needed in a relatively short period of time. Over the last few years, 25 States and the Canadian Province of Ontario have enacted programs designed to shield low-income elderly homeowners and, in many cases, renters from property tax overload situations.

The 14 States that have now enacted circuit-breaker laws each have chosen a unique plan. As long as States retain the initiative for providing property tax relief for low-income households, better circuit-breaker techniques will continue to be developed. (Table 12)

It can also be argued that Federal incentive grants should not have to be used to induce States to do something that is morally right, highly popular, and relatively inexpensive. All of the States have sufficient fiscal capacity to underwrite a limited property tax-relief program for low-income households.

Perhaps the most persuasive argument for allowing States a few more years to put their own property tax relief houses in order arises from the fact that State fiscal policies are largely responsible for the weight of the local property tax. These jurisdictions, therefore—not the National Government—should finance circuit-breaker programs designed to shield low-income homeowners from property tax overload situations.

Unless constructed carefully, a Federal incentive grant for property tax relief could create an inequitable intergovernmental situation. Specifically, it would reward those States that force their local governments to make heavy use of the property tax and shortchange those States that make above-average use of nonproperty tax revenue.

In all of its recent reports, this Commission's recommendations have underscored the need to build a greater flexibility into our Federal aid system. A Federal incentive grant with its own set of guidelines and controls would add to an already overburdened Federal aid structure. For these reasons, such a grant proposal should be opposed.[3]

THE PROPERTY TAX ASSESSMENT REFORM ISSUE

Those who are most familiar with the operations of the property tax suggest that one reason for its unpopularity with the public is the widespread feeling that the tax is not administered fairly. Put another way, inequitable assessments tend to increase public disenchantment with the property tax because they result in random and unwarranted tax burden differentials. Moreover, poor assessment practices lead to taxpayer confusion about, and distrust of, the property tax system.

Means for improving property tax administration are available. A decade ago this Commission, building on the work that had been done by professionals in the property tax field, submitted a comprehensive list of prescriptions for strengthening the property tax.[4] Underpinning the 29 policy recommendations are the following basic principles:

Footnotes at end of article.

1. The prevailing joint State-local system for administering the property tax can work with a reasonable degree of effectiveness only if the State tax department is given sufficient executive support, legal authority, and professional stature to insure local compliance with State law calling for uniformity of tax treatment.

2. Professionalization of the assessment function can be achieved only if the assessor is selected on the basis of demonstrated ability to appraise property.

3. The perennial conflict between State law calling for full value assessment and the local practice of fractional assessment can be resolved most expeditiously by permitting local assessment officials to assess at any uniform percentage of current market value above a specified minimum level provided this policy is reinforced with two important safeguards:

a. A full disclosure policy, requiring the State tax department to make annual assessment ratio studies and to give property owners a full report on the fractional valuation policy adopted by county assessors, and

b. An appeal provision specifically to authorize the introduction of State assessment ratio data by the taxpayer as evidence in appeals to review agencies on the issue of whether his assessment is inequitable.

Significantly, the Commission directed its recommendations to the States on the ground that they are unquestionably responsible for effective and equitable administration of the property tax. The question of whether the Federal Government should become involved in a matter of such clear-cut State-local concern was not even raised a decade ago and not one of the Commission's 29 policy recommendations called on the National Government to take remedial action.

The Commission reaffirms its recommendations of 1962 that call on the States to strengthen assessment administration and thereby make the property tax a more effective and equitable revenue instrument for local government.

Our current research reveals that many States have taken steps to improve assessment administration and, in particular, to broaden their own activities in this area. Still, progress is slow. Tax administration is an ancillary and unglamorous aspect of government activity and initiatives for spending additional funds to improve it are usually given the lowest priorities. Indeed, the amounts that are now being spent by the State governments in supervising property tax administration are generally meager. Many States spend as little as one-twentieth or one-thirtieth of one percent of local property tax collections for this function.

The Commission considered, but turned down, the possibility of a small Federal categorical grant to encourage States to improve assessment administration.[5] We could find no major Federal program objective that has been seriously undercut because of poor property tax assessment administration on the part of State and local governments. Moreover, both States and localities can use any portion of their Federal revenue sharing funds for financial administration—including property tax assessment administration.

As in the case of a proposed Federal incentive grant for property tax relief, this proposal would add still another narrow purpose categorical aid program with its own set of Federal guidelines and controls. Enactment of this proposal would represent still another Federal attempt to dictate State and local spending priorities and would, therefore, also work against the objective of building greater flexibility into our Federal aid system.

Furthermore, before launching a new Federal initiative for property tax assessment reform the Commission urges the President and the Congress to take steps to coordinate and strengthen existing Federal programs that have clear potential for stimulating improvement of State and local assessment practices. Examples of such activities are:

The Department of Housing and Urban Development; under its research and demonstration program, can make grants to, or enter into contracts with, States and localities for innovation projects aimed at improving assessment administration.

The FHA appraisal activities of the Department of Housing and Urban Development might be extended and coordinated with those of the local assessors.

Other Federal agencies—such as the Department of Transportation, the General Services Administration and the Department of Defense—are continuously involved in land acquisition and undoubtedly conduct appraisals in connection with these activities. Such appraisals should also be coordinated with local assessment work.

The various mapping operations of the Department of Commerce and the Department of Interior might be available to the State property tax agencies as they develop land use maps in connection with property tax assessment.

Treasury regulations and practices regarding depreciation of buildings for income tax purposes should be examined to determine whether such practices do indeed as has been alleged—encourage over-assessment of improvements vis-a-vis the land on which the improvements stand.

The activities of the Civil Service Commission under the Intergovernmental Personnel Act might be expanded in the areas of assessor training and interchange of State and Federal personnel concerned with property appraisal.

The experience that has been gained by the Bureau of the Census in conducting sales-assessment ratio studies might be built upon to help States strengthen and standardize their own studies.

INTRASTATE SCHOOL FINANCE EQUALIZATION

The Commission also examined the issue of whether and to what extent Federal financial aid was necessary to help States meet the problems of school finance that may stem from recent court decisions. Evidence provided in this report indicates that, with few exceptions, States have ample untapped tax potential for this purpose. Obviously, action on school finance that requires States to alter substantially the degree of reliance on the local property tax for school support takes time and would require public acceptance.

In order to minimize the time period for accomplishing school finance equalization and help the States surmount the obvious political obstacles, the Commission considered a proposal for limited and temporary Federal assistance. The assistance might take the form of a general purpose grant in the range of $20 to $40 per school age child that could be used for any purpose so long as a State met equalization objectives specified by the Federal aid legislation. These features assure that a State like Hawaii, which has eliminated inter-local fiscal disparities by opting for a statewide school system, would not be deprived of the benefit of the aid program.

The assistance would be equipped with a self-destruct mechanism. For example, the aid legislation could be drawn so as to insure that it phased out automatically as the National Government relieved States of financial responsibility in, say, the public welfare field.

The Commission rejected the idea of limited and temporary Federal assistance designed to encourage each State to improve the ability of its school finance system to equalize the fiscal capacity of its local school districts. No vital national program objectives are currently being subverted by existing intrastate school finance disparities. Moreover, Federal aid for this purpose would

represent a return to the pre-revenue sharing philosophy that the National Government is in a better position to determine State-local budgetary priorities.

The States have plenary powers in the education field and they also have an overriding self-interest in adequate provisions of this single most costly State-local function. States have at least four options in responding to any court decision invalidating a school finance system that relies too heavily on the local school property tax. They can reorganize their school districts to make each local district more in the image of the State as a whole. They can mandate a uniform school property tax rate the proceeds of which could be used to equalize financial capacity among districts. They could enact State property or non-property taxes the proceeds of which could be used to equalize local fiscal capacity. They could finance schools from non-property tax sources as does Hawaii. The States alone have the capacity to take any or all of these options should the need arise as a result of court action. Thus, Federal intervention is not a prerequisite to State solution of the intrastate school finance disparities issue.

The Commission concludes that the reduction of fiscal disparities among school districts within a State is a State responsibility.

Yet, in concluding that the reduction of fiscal disparities among school districts within a State is a State responsibility, the Commission hastens to emphasize four points:

The Commission is not addressing itself to the role the Federal Government should play in supporting public elementary and secondary education but to the narrower question of whether and to what extent Federal aid is necessary to encourage States to reduce fiscal disparities among school districts within each State.

The Commission believes time is needed to assess the impact of revenue sharing, particularly the extent to which it will enable the States to come to grips with the intrastate school finance question. California, for example, has already earmarked its State allocation of revenue sharing to finance part of its $1 billion school finance reform-property tax relief program.

The lower courts have lit warning signals on the intrastate school finance problem but the appropriate future path for State action will not become clear until the Supreme Court renders a decision on a case now pending before it.

The uncertainty surrounding the effectiveness of dollars earmarked for education, as it is presently delivered, illustrates the need for State systems to measure the effectiveness of school spending and to rebuild citizen confidence in public education.

SUMMING UP

The most significant and positive reference that can be drawn from the Commission's policy recommendations is this—it is not necessary to buck every problem up to Washington for resolution. Strengthened by revenue sharing and with the strong prospect for shifting an increasing share of the welfare expenditure burden to the National Government, the States can and should be held accountable for their traditional property tax and school finance responsibilities.

But revenue sharing and Federal takeover of welfare are not enough. If States are to play a strong role in our Federal system, Congress must resist the constant temptation to solve problems that should be handled at the State level. Congress would be in a far better position to resist this pressure if it subjected to a rigorous national interest test all proposals calling for new National Government initiatives in areas of traditional State-local concern. Only by applying a "tough" test can we strike a reasonable balance between National and State interests.

The Commission concludes that there is no need to enact a Federal value-added tax to provide revenue for property tax relief and to ameliorate fiscal disparities among school districts within each State, and therefore recommends that such a tax not be adopted for this purpose.

In view of our conclusion that no Federal aid should be extended for general property tax relief or intrastate school finance equalization, it follows that the introduction of a major new source of taxation for these purposes is not warranted.

This Commission, however, has conducted a thorough study of the value added tax and has also examined certain other means for strengthening the National Government revenue system and will release an information report on this subject.

FOOTNOTES

[1] ACIR, *Revenue Sharing—An Idea Whose Time Has Come.* December 1970, pp. 7–9.

[2] This statement should not be interpreted as an argument against *indirect* property tax relief that could result from Federal revenue sharing or Federal assumption of welfare financing.

[3] The following statement of dissent was submitted by Senator Muskie and concurred in by Governor Kneip:

"The recommendations adopted by the Advisory Commission on Intergovernmental Relations on the subject of property taxation place an unfairly heavy burden of relief and reform on State and local governments and dismiss the proper, limited contribution the Federal Government can make in this area.

"Where excessive property taxes undermine the Federal goal of providing security to the poor and the elderly, even diverting Federal help from needy recipients into local tax collections, there is a clear Federal interest in relieving the special burden. Where States are working to strengthen their own revenue systems through reforming inequitable and arbitary assessment practices, there is a clear Federal interest in assisting such progress.

"The excellent staff work that went into the thorough ACIR study of school financing and property taxation clearly demonstrates the national scope of the problem. Of 14 million Americans with incomes under $5,000 a year, 10.4 million people (4.5 million of whom are 65 or over) face property tax payments in excess of 6 percent of their total income. Nearly 1.3 million elderly homeowners with incomes under $2,000 pay an average of 15.8 percent of their income in property taxes. Additionally, ACIR staff research has shown that State governments have made "spotty" progress at best in implementing the ACIR's 1963 recommendations for upgrading their systems of property tax administration.

"In my view, a restricted national program that encourages the States to improve property tax administration while helping lighten excessive taxes on qualified low-income renters and homeowners is necessary. To the extent that the final recommendations foreclose the search for an appropriate Federal remedy, they compel my strong dissent."

Senator Percy submitted the following statement:

"I regret very much not being able to participate in the deliberations of the Commission at its meetings on December 14th and 15th because of my absence from the country.

"On reviewing the decisions of the Commission, I wish to express my regret that the Commission did not accept a somewhat more expanded view of the role of the Federal Government in encouraging the States to implement programs of property tax reform and relief.

"There is ample evidence that in many States property taxation comprises a very heavy burden on homeowners that sometimes exceeds their ability to pay. It is my view that reform of State property tax systems would lead to substantially more equitable taxes, and that in instances where property taxes exceed the ability of qualified homeowners to pay, State programs of relief should be encouraged. I do not believe that the Federal Government should interpose itself directly in the administration of State property taxation. But I believe there is a need for the Federal Government, in properly limited ways, to encourage the States to undertake such programs of reform and relief."

Treasury Secretary George P. Shultz submitted the following statement:

"I agree that the States have and should retain primary responsibility for shaping property tax relief and intrastate equalization of school finances. Yet I believe the evidence indicates that in some instances low income groups, particularly the elderly, have come to bear in recent years such a heavy burden of property tax that Federal action deserves consideration, pending the time that States are in a position to complete that action themselves.

"I would note that the Commission's action on this issue was taken by a closely divided vote."

[4] ACIR, *The Role of the States in Strengthening the Property Tax,* A–17, June 1963, Vol. I, Chapter 2.

[5] See statements by Senators Muskie and Percy and Governor Kneip in footnote on page 4.

TESTIMONY OF GOV. KENNETH M. CURTIS, BEFORE THE SENATE SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS, FRIDAY, MAY 4, 1973

Senator Muskie and members of the committee, as one of the Nation's Governors, I am extremely grateful to have this opportunity to appear once again before the subcommittee on intergovernmental relations.

In the nearly seven years I have been privileged to serve as a Governor, I have developed great respect and appreciation for the work of this subcommittee in searching for solutions to the severe revenue problems that have plagued the States and municipalities.

In many instances, I am afraid we seek new sources of revenue at the State and local levels, while failing to make efficient use of existing tax sources.

It has been most encouraging to see the States move to the income tax as a greater source of revenue.

However, nearly 40 percent of all State and local revenues still come from the property tax.

Nation-wide, it is probably the poorest administered of all taxes.

Undoubtedly, hundreds of millions of dollars could be collected through a reform of the property tax without a raise in the current rate of taxation.

In fact, reform of the Federal income tax, and property taxes would go far in relieving the almost uncontrolled increase in taxes for most Americans.

So, I am delighted this subcommittee is addressing itself to property tax reform.

I am also here representing the education commission of the States, who have concluded in a recent research brief that "the real property tax is the single most important revenue source for State and local governments in the United States."

Their report also concluded:

"Popular discontent with the property tax is caused to a great extent by poor administration of the tax, including unfair assessments and exemptions.

"This discontent adds to the difficulty school boards face in getting their budgets approved."

Because I am more familiar with my own State and know of its typically poorly administered property tax, I will use the situation in Maine as an example.

It is very much apparent in Maine that

the property tax system is both poorly administered and grossly overburdened.

Furthermore, reliance on the existing property tax system to fund local schools has resulted in significant inequalities in educational opportunities for our children.

If we are to have meaningful property tax reform, we must deal with all of these problems.

The tax must be professionally and fairly administered.

The burden of property taxes on low and fixed income families must be reduced through a general reduction in property taxes or through a "circuit-breaker" provision.

And finally, we must insure equal educational opportunities for our children.

The administration of Maine's property tax system has not been substantially changed since the State separated from Massachusetts more than 150 years ago.

The system is administered in 496 separate assessment districts with State valuations ranging from $100,000 to $270 million.

Most of Maine's 1,500 local assessors are elected.

The only qualification to hold office is that one must be 18 years of age.

The State does have a certification and training program but assessors are not required to be certified.

In addition to the above, there are only 5 assessors to cover more than 10 million acres of Maine's unorganized territories.

Less than 1 percent of the 1,500 assessors are considered to be professionally qualified.

This is due in part to the nature of the assessor—

He is an elected, part-time official, who generally has other part-time municipal duties, but who, at the same time, must earn a living for himself and his family.

None of the institutions of higher learning in the State offer any formal programs oriented toward the training of assessing personnel, although the subject is aired from time-to-time in the training programs presently being conducted for municipal officials under title I of the Higher Education Act of 1965.

Formal State activity to train assessors is primarily evident in 12 week courses conducted at several of the vocational training institutes and the assessor's training school which has been offered for one week during the summer for a number of years under the auspices of the State Bureau of Taxation, in cooperation with the Maine Municipal Association and the Maine Association of Assessing Officers.

These programs have been worthwhile for a limited number of persons but have obvious short-comings in terms of the long-range needs.

As you might expect, unqualified personnel generally results in substandard assessing.

If the goal of quality assessing is that the determination made by the assessor should be as nearly equal to the current fair market value as is possible, then one can measure the quality in terms of deviation from this standard.

The statistical measure used for this purpose is the coefficient of dispersion—the ratio of the average deviation to the average assessment ratio.

The lower the coefficient of dispersion, the more uniform are the assessments in the area under study.

When the coefficient of dispersion is greater than 20, the quality of assessing can be considered substandard and probably when it is greater than 15 it should be suspect.

A study completed in 1969 indicates that 86 percent of Maine's municipalities have coefficients of dispersion greater than 20.

57 percent have coefficients greater than 30.

The other statistic which is important in evaluating the effectiveness of the assessment program is the average assessment ratio.

This statistic is discovered by indicating the ratio between the assessed value of each property in the sale-ratio study and its sales price, adding the ratios, and dividing by the number of items.

The average assessment ratio indicates generally how much the community's assessment differs from fair market value.

In 1965 through 1967 over 50 percent of the municipalties had assessment ratios less than 40 percent of fair market value.

When the majority of assessment ratios are below 40 percent of fair market value and when a majority of coefficients of dispersion are so great as to require immediate revaluation, it cannot be denied that the quality of assessing is generally substandard.

And, yet in 1972, Maine's property tax generated more than 200 million dollars in revenue, nearly twice as much revenue as any other tax.

The inescapable conclusion is that Maine's largest and most significant tax system is being administered generally by untrained, part-time, amateurs in 496 separate assessment districts with little in the way of uniform standards or procedures.

Unfortunately, the Maine Legislature has shown little inclination to remedy the situation.

The property tax currently provides approximately 60 percent of the funds for local education.

The poor administration of the property tax, therefore, has a direct impact on the quality of education offered to our children.

Poor administration reduces confidence in the tax and increases discontent of the taxpayers who often vent their anger and frustration by attacking school budgets.

Furthermore, substandard assessment practices may reduce the valuation of a municipality and in turn reduce the funds available for education.

But, perhaps more important than the above, increasing costs of local education have resulted in massive increases in property taxes.

During the last ten years, property taxes have increased nearly 100 percent.

Increasing property taxes have been particularly burdensome on Maine's low and fixed-income populations.

These increases have also exacerbated a very serious problem that has existed for many years.

Reliance on the property tax to fund local education has resulted in significant inequalities among our municipalities in the money that is available for education.

Maine, like every State, has its so-called wealthy and poor municipalities.

Per pupil valaution varies from as low as $3,000 per pupil to $145,000 per pupil.

The poor towns make a very great tax effort to raise grossly insufficient amounts of money to educate their children, while the wealthier towns make very little tax effort, but are still able to raise large amounts of money per pupil.

As an example, I will use 2 towns in Maine which I will refer to as town A and town B.

Town A raises $1,500 per pupil with a tax effort of 6.3 mills.

Town B raises $700/pupil with a tax effort of 18.4 mills.

Thus, town A is generating twice as much money per pupil as town B with one-third the tax effort.

I'm sure none of us would argue that availability of funds has a direct relationship to the quality of education offered.

I am also sure none of us would argue that every child in Maine and in every State throughout the country is entitled to equal educational opportunities.

Clearly, any effort to reform our property tax system must deal, not only with the burdensome property tax levels, but also with educational funding.

In Maine, efforts have been underway for several years to reform our property tax system.

To date, these efforts have been only marginally successful.

During the 105th Maine Legislature, a bill was enacted providing a "circuit breaker" type of property tax relief program for low income elderly citizens.

The last three sessions of the legislature have considered proposals to reform the finance of local education.

I have included in my legislative program for the current session of the legislature, a comprehensive tax reform package.

The main features of this package are the reform of the finance of local education and improvements in the administration of the property tax.

I have proposed that every municipality have the opportunity to contribute at an equal rate to the support of education.

Each municipality would be assessed a uniform school tax of 13 mills, based on State valuation adjusted to 100 percent.

This is much less than the current State average of 18.5 mills.

To make up for this reduction in the average property tax rate, the State's share of operating costs for non-property sources would be increased from 33.3 percent to 46 percent.

The State treasurer would issue warrants to each municipality to assess the required amount and remit them to the general fund for subsequent distribution under a new school aid formula.

The proposal would limit the amount of increased subsidy each year until the local system reaches the average per student level of $733, $630 per elementary student and $945 per secondary school student.

In addition to this distribution, the school units would be reimbursed for excess costs for vocational and special educational programs.

To ensure that our additional State funding will result in property tax decreases in most communities, municipalities would be subject to expenditure limits for education.

Each municipality would be allowed to increase its expenditures but only if approved by their town meetings or councils.

This proposal would also establish a State bureau of property taxation and a property tax appeals board to provide administrative review of local assessments subject to court appeal by either the taxpayer or the municipality.

Collection of property taxes has traditionally been left to the States, counties and municipalities.

Undoubtedly, there are those who will oppose Federal participation even in the limited manner envisioned in S–1255.

But, I don't believe it is particularly useful to quibble about tradition or philosophies of government when the need for reform is so apparent and solutions so readily available.

We need only to determine who, at this particular time, can best implement the kinds of reform that are so desperately needed.

I believe that in this instance, the most logical course of action is a cooperative effort with the federal government.

Clearly S–1255 does not threaten state control of property taxes.

It does provide financial incentives to improve the administration of the property tax system and to reduce the burden of property taxes.

The major provisions of the act are contained in titles III, IV and V.

Under Title III, the federal government would fund one-half the cost of a quali-

fied program of real property tax relief, up to a limit of $6.00 per capita.

This provision would provide up to $6 million in federal funds for the state of Maine and would serve as a major incentive to expand our existing property tax relief law to cover all low income homeowners and renters, regardless of age.

Title IV would encourage states to provide property tax payers accurate information about property assessment and appraisals, uncomplicated appeals procedures, and detailed data on the value of real property exempt from taxation.

At this time, Maine law does not provide for the publication of data relating to assessments and appraisals.

In addition, a valuation of exempted property is conducted only at 5 year intervals.

Finally, there is no state-level appeals mechanism other than superior court which is costly to both the taxpayer and the municipality.

Although I have already introduced proposals to solve many of these deficiencies, title IV would greatly assist us in this effort.

Title V would encourage the states to improve the professional qualifications of property appraising and assessing officials by providing interest-free loans to state programs which meet the requirements of this title.

I have already referred to the desperate need for qualified personnel.

I would only emphasize here that no system can be effective without trained personnel available to administer it.

Although I would prefer a matching grant rather than loan provision, I also support this feature of the bill.

Although the education commission of the states has not yet taken a position on this legislation, I would like to express my support for S1255, the property tax relief and reform act of 1973.

I would welcome the technical and financial assistance of the federal government in reforming the property tax and, thereby, providing a better life for the people of Maine.

With the assistance envisioned in S–1255, I believe we will finally be able to achieve the kinds of reforms we have so long sought.

Senator Muskie, I want to commend you and your colleagues for introducing this bipartisan legislation.

I respectfully urge this committee and Congress to act favorably upon it.

Property Tax Reform

(Statement of Alan C. Stauffer and Thomas Laverne)

PREFACE

The following statement is testimony by Alan C. Stauffer, staff member of the Education Commission of the States (ECS) Finance Project, before the U.S. Senate Subcommittee on Intergovernmental Relations, May 4, 1973. The subcommittee is studying S.B. 1255, a bill providing for property tax relief and establishing incentives for state property tax reform.

ECS recently released a report on exemption and assessment practices in the states. The citation of the report is: Alan C. Stauffer, *Property Assessment and Exemptions: They Need Reform*, Research Brief No. 3 (Denver: Education Commission of the States, March 10, 1973). The report will be referred to in this statement as Research Brief No. 3.

STATEMENT

Schools suffer because of the haphazard and unjust system of property tax administration. School districts are often over or underpaid by the states because of errors in calculating local assessed valuations. Municipal competition to expand tax bases through annexation impairs school district long range planning ability since boundaries are constantly changing. Spiraling tax rates coupled with spreading discontent with local assessment practices and tax appeals procedures make it difficult for local school boards to get their budgets approved.

Property taxes are here to stay despite efforts in four states to outlaw them constitutionally (or severely restrict mill levies) and despite challenges in state and federal courts. The tax simply produces too much revenue (nearly 40% of state and local taxes)[1] to abandon lightly. Removal of the tax would have a massive effect on the real estate market and on other taxes.

The Supreme Court decision in San Antonio Independent School District v. Rodriguez means that locally raised dollars will continue to pay a major share of the school finance pie. This development makes it imperative that the administration of the tax be cleaned up in order that the services it supports (especially education) are not jeopardized.

The ECS Finance Project undertook a study of the property tax assessment and exemption practices because of the effect they have on school finance. We were convinced that no matter what the Rodriguez decision might be, education had nothing to lose and a lot to gain from property tax reform.

Our main concern in the study was property tax reform, rather than property tax relief. We took this approach because: (1) property tax relief is politically popular and is catching on in the states. Fifteen states have already adopted "circuit-breaker" property tax relief programs. I am aware of property tax relief legislation in fifteen other states. While there is a definite need for property tax relief, we are concerned that relief proposals will divert attention from the need for real reform. If relief is granted without reform, old inequities still exist, only sometimes in a lesser degree. Our idea was to encourage state legislators to focus their attion on the politically unpopular area of property tax reform. (2) There is a group of economists and tax reformers who claim that the property tax would not be regressive if it were administered properly.[2] The tax does not have to be burdensome. If the tax were administered uniformly and if exempt property owners paid for property services received and exemption loopholes were plugged up it would be possible to lower the tax rates considerably. Reform brings with it tax relief.

Research Brief No. 3 brings under one cover material on the property tax compiled by the Advisory Commission on Intergovernmental Relations (ACIR), the Bureau of the Census, the Russell Sage Foundation, the International Association of Assessing Officers (IAAO) and an original ECS survey. The survey was sent to all state property tax administrators. We got a 100% return. We also followed up the written survey with telephone interviews. The study found that the States have not taken the necessary steps to regulate the local assessor and to insure tax uniformity. For example, in one Louisiana tax district property assessments range from 1% to 550% of market value.[3]

Our original survey discovered that:

1. 17 states regularly assess exempt properties and publish the results for taxpayer use;

2. The majority of assessors in the United States are elected. Only 7 states appoint assessors. In two other states assessors are appointed under the merit system.

3. Assessors are required to be certified in only 9 states;

4. 22 states require assessment maps with no minimum standards; several states require maps but have not provided funds for the program;

5. 20 states require assessor training either before or after the assessor takes office;

6. Uniform assessment manuals are required in 26 states, 11 other states publish manuals but do not require their use;

7. State sales ratio studies are not conducted in 9 states;

8. 34 states do not grant financial aid to upgrade local assessment practices;

9. 28 states can order reassessment of local properly or cause omitted property to be assessed;

10. Most states have far too many assessment jurisdictions to achieve economies-of-scale or to implement modern computer assisted appraisal systems. Consolidation has taken place only in Minnesota, Georgia, Tennessee, South Dakota, and Florida.

A major part of Research Brief No. 3 deals with the problems caused by property tax exemptions. One study claims that one third of the taxable real property in the United States is exempt.[4] Exempt properties range from church cemeteries to the 77 story Chrysler Building in New York. Thirty-three percent of the nation's land mass is owned by the federal government and is tax exempt.

Many exemptions were written into law with the intention of bringing tax relief to certain groups of people. Because of substandard assessment practices the exemptions actually relieve many property owners who can afford to pay. The way some exemptions are administered grossly violates the equal protection of the law principle. Under a single type of exemption, one individual may end up being relieved of 10% of his tax bill while another individual in the same jurisdiction is relieved of 30% or more. This problem can only be corrected by insuring uniformity of assessment both in and among tax jurisdictions.

We found in our study that the proper use of computer technology could revolutionize property tax administration. Computers have been used with considerable success to assist the assessor in determining the market value of individual properties. The bias of an assessor in determining property value can be reduced and countless hours can be saved. In California, computerized assessment of single-family homes has produced coefficients of dispersion[5] half as small as the nation's most accurate assessors have been able to achieve. There are two problems associated with the implementation of computer technology. First, assessment jurisdictions have not been able to afford electronic data processing equipment. The assessor usually has the lowest priority in jurisdictions where computer time is shared. Second, computer assisted appraisals have been found to work best in residential neighborhoods where there are frequent sales. There is a great need for research to develop the technology to apply to older neighborhoods and to complex industrial and commercial properties. Federal or state incentive programs in assessment administration should make provisions for implementation of computer technology and for further research into computer applications.

After analyzing the information available to us, we have presented the following alternatives to the states as ways in which property tax administration could be improved.

EXEMPTIONS

Review and clarify exemption laws.

Require the regular assessment of exempt property and publish the results.

Adjust the assessed value of property to compensate for differing assessment levels before applying exemption formulas.

Require that exempt organizations pay direct charges for specific property-related community services.

Reimburse local governments for mandated exemptions

Use "circuit-breakers" rather than exemptions to give tax relief.

ASSESSMENT

Require assessors, elected or appointed, to meet minimum professional standards.

Consolidate assessment jurisdictions to

allow for economies-of-scale and regional mass appraisal systems.

Publish and require assessors to use uniform assessment manuals.

Require assessors to use assessment tax maps that meet minimum standards.

Conduct and publish the results of ratio studies.

Establish effective state property tax supervisory agencies that have the power to:

1. Establish a mandatory local assessment reporting system;

2. Grant financial and technical aid to local assessors;

3. Assess complex commercial and industrial properties;

4. Order reappraisals;

5. Locate and cause to be assessed property omitted from local assessment.

Avoid the use of local assessed values for purposes other than property tax administration.

Enforce existing laws providing for uniform property assessment.

Audit property tax reform laws when enacted to insure local conformity.

Similar alternatives were presented to the states following ACIR's 1963 study of property tax administration. What is needed to achieve reform is an incentive. The recent court cases involving schools and property tax systems are an incentive for reform. A program of federal and state loans and grants would provide another needed incentive.

FOOTNOTES

[1] Advisory Commission on Intergovernmental Relations data from unpublished report in Alan C. Stauffer, *Property Assessment and Exemptions: They Need Reform,* Research Brief No. 3 (Denver: Education Commission of the States, March 10, 1973), p. 45.

[2] See George E. Peterson, "The Regressivity of the Residential Property Tax," a working paper, (Washington, D.C.: The Urban Institute, November 1972), and Theodore R. Smith, "Sales Ratios and Property Tax Regressivity," *Assessors Journal VII* (October, 1972), pp. 25–42.

[3] *A Study of Louisiana Ad Valorem Tax and Property Tax Relief Fund* (Baton Rouge, Louisiana: Gulf South Research Institute, August 17, 1972), p. 30.

[4] Alfred Balk, *The Free List: Property Without Taxes* (New York: The Russell Sage Foundation, 1971), pp. 10–19.

[5] A Coefficient of dispersion measures the average departure of individual assessments from the middle or median level of assessment. Low coefficients denote uniformity of assessment. A coefficient below 10% is considered to be ideal. High coefficients (above 20%) show that properties are being assessed at various different rates and thus taxpayers are being treated unequally.

TESTIMONY BY THOMAS LAVERNE

Chairman of the Education Commission of the States Advisory Committee on School Finance concerning Senate Bill 1255, legislation that:

1. Establishes the Office of Property Tax Relief and Reform within the Department of the Treasury to administer the property tax relief and reform programs established in the legislation (Title II);

2. Pays one half (but not more than 6 dollars multiplied by the population of a state) of the cost of qualified state property tax relief programs (Title III);

3. Authorizes grants and interest-free loans to states (up to 60%) for the purpose of providing property tax information to the residents of the states and for upgrading taxpayer appeals procedures. In order to qualify states must: (a) conduct annual assessment ratio studies and publish their results; (b) guarantee that coefficients of dispersion fall in a certain range; (c) provide a speedy tax appeals procedure; (d) assess and publish the value of exempt property within each tax jurisdiction (Title IV);

4. Provides for interest-free loans for state programs to train and certify property tax officials and for tax maps and other assessment improvement activities (Title V);

5. Provides for federal technical assistance to local assessors and for a survey of all federal exempt land (Title VI);

6. Allows standards to be set pertaining to mass appraisal firms (Title VII).

STATEMENT

"Over the years, no tax has been more bitterly denounced than the property tax. Adverse criticism of the tax dates back at least 5,000 years to the Egyptian pharaohs when the first use of the property tax was recorded."[1] Recent court cases, and our ECS Research Brief No. 3 have reminded us that 5,000 years later we still suffer from inept, inadequate and unjust administration of local property taxes. Local assessors have not been able to keep up technologically with the rapidly changing American scene. We still select assessors the way we did a hundred years ago and require no more of them in the way of qualifications. Local special interest groups exert tremendous pressure on the assessor to keep tax values down. The assessor who withstands these pressures may find himself out of office the next year. The blame for the property tax mess should not fall completely on the local assessor or local government but rests also with the states. Most states have never rewritten their tax laws. States require uniform assessments but don't require the assessors to use the tools that would bring about that goal. Most important, the states have failed to exert leadership to bring about the needed change. Political pressure to keep the status quo has been most effective. There is a need for state and federal reform mandates to relieve the elected official from this political pressure.

Perhaps the area of greatest neglect has been that of financial assistance to aid local assessment reform. It is ironical that the tax that is hated the most and raises the majority of local revenues is neglected the most in the way of resources necessary to make a sound system. There are four areas where federal or state aid to local assessment administration would make a difference. They are: 1—mapping programs; 2—ratio studies; 3—uniform assessment manuals; 4—training and certification of assessors. While all four of these are important, I would like to focus my remarks on tax mapping to illustrate where aid is needed and how it would pay off.

Property tax assessment is the process by which real property is: 1—discovered, 2—given a tax value, and, 3—listed on the tax rolls. The first requirement of a good assessment system is a complete set of tax maps.[2] An accurate assessment map insures that all taxable land is *discovered* by the assessor. Mapping also facilitates the process of discovering and inventorying land improvements. *Millions* of parcels of property escape taxation simply because assessors do not know that they exist.

Assessment maps must meet certain minimum standards in order to be useful to the assessor and in order to promote assessment uniformity. Important criteria include:

1. Maps must contain a reference to a grid system

2. Maps must give location and name of all streets, highways, railroads, alleys, rivers, lakes, etc.

3. Location of lot lines and property lines—preferably both—drawn to scale, together with dimensions, bearings, areas and acreages must be given

4. The map number or other designation for each parcel of property; or township, range, and government lot number where areas are under government survey must be given.

Footnotes at end of article.

5. Maps must meet acceptable standards of accuracy (standards depend upon the use to which the maps will be put).

6. Scale of the maps should be readily convertible from English to Metric systems.

7. The mapping process should depend upon aerial photography if accuracy is to be obtained.[3]

Our ECS study of assessment practices showed that in only 22 states are tax maps with minimum standards required. In eight states maps are required but no minimum standards are imposed.[4] A recent study by the International Association of Assessing Officers of state activity in assessment mapping showed that there are statewide mapping programs underway in only 10 states.[5]

Unfortunately, mapping, *the first requirement of a sound assessment program* is also one of the most expensive elements. The cost of aerial photography alone ranges between $10 and $20 per square mile.[6] Often monuments on the ground used to determine precise scale of aerial photographs are inaccurately placed. The cost of remonumenting may equal or exceed all other mapping costs.[7] The costs of complete assessment maps vary geographically. Project costs of $2.20 per parcel have been reported in Alaska as compared to $22.50 per parcel in Tennessee. In Kentucky it costs an average of $300 per square mile while Virginia reports costs of up to $1,000 per square mile. Some specialized maps where topographical information is needed cost around $2,000 per square mile.[8]

The states have not helped local government pay for the tremendous costs of mapping. Only seven states have financial assistance available for this purpose.[9] If local government took it upon itself to pay for mapping programs it would either have to float more bonds or raise local taxes (property taxes). It is politically difficult to ask property taxpayers to increase their burden in order to assure that all their property is being taxed!

If loans or grants were available to pay for mapping programs, local government would be immediately financially rewarded. In most cases 10% of local taxable properties will not be on the assessment roll prior to a mapping program.[10] The most complete case study found dealing with the value of assessment maps concerns a suburban township in Cook County, Illinois. Aerial photographs of the township were made in 1956–57 and again in 1961–62 survey. These maps were compared with information contained on property record cards maintained by the assessor. As a result of the survey 3,600 additional assessable improvements were discovered. The improvements were not appraised in the study. The 1956–57 study resulted in 232 properties being reappraised with a resultant increase in tax revenues of $432,673. The study cost $26,000.[11]

Mapping programs also produce many indirect benefits. One assessor reported that before maps were made it took seven months and over 2,500 miles of driving to assess an area. But after the maps were completed it took three months and 1,200 miles to complete a reassessment.[12] One authority holds that accurate assessment maps allow the assessment process to proceed at least thirty percent faster.[13]

It is plain to see that the *cost-benefit factor for investing money in tax mapping programs is very favorable.* The same could be said for the three other areas needing financial support (training, ratio studies, assessment manuals).

One reason why tax rates are excessive in some jurisdictions is that up to one third of the real property is tax exempt. Many of the exempt properties belong to the federal government. Often federal property receives the benefits of local services such as fire protection, sewer and water systems. The federal government could relieve local tax rates by paying local governments a tax equivalent

for property it owns within the jurisdiction. The level of government that requires the exemption should pick up the tab for that exemption.

I would now like to turn my remarks to some areas where the federal government could assist the local assessor without spending significant amounts of money. One of the most difficult tasks that faces an assessor is the appraisal and assessment of complex business and industrial property. In half of the states, local assessors receive no help in assessing such properties.

The owners of complex and industrial property often hire consultant firms to help keep their assessed valuation down. Industry often lists a much different value figure on their federal income tax return than they supply to local assessors. Local assessors would be aided immensely if the federal government required that each corporation or firm which owns property in more than one taxing jurisdiction to list such properties and values separately on federal tax returns and make this information available to local and state assessors.

The federal government has several agencies that are involved in property appraisal work. Among these are the Dept. of Housing and Urban Development programs in urban renewal and community development, the Federal Housing Administration, and the Bureau of the Census. The information these agencies generate would be an invaluable supplement to local appraisal data and would serve as a check of local assessment accuracy.

SUMMARY

In this statement I have discussed the mess of our local property tax systems. Local assessors are caught between the pressures of assessing uniformly and of keeping assessed values down. The federal and state governments could partially relieve this pressure by mandating certain reforms. Reforms such as the establishment of tax mapping programs would make a difference in local assessment uniformity. Such programs are very expensive. Federal loans or incentives would help the situation.

One method of acquiring tax relief is to expand the property tax base. The federal government could help do this by paying tax equivalents on exempt property it owns. The level of government that requires property tax exemptions should pay for the exemption.

There are two areas in which the federal government could aid local assessors without spending a significant amount of money. One is by requiring corporations to list separately the value of property in a particular state on the federal tax return and make this information available to the assessor. The second is by making certain federal statistics and appraisal information available to local assessors.

I m pleased to note that there are provisions in Senate Bill 1255 that cover the points I have raised.

FOOTNOTES

[1] Utah Foundation, "Property Tax Reform—1972," Report No. 311, September 1972, p. 100.

[2] Committee on Minimum Assessment Standards, *Report on Minimum Standards* (Chicago: International Association of Assessing Officers, 1963), pp. 2–3.

[3] *Assessment Mapping and Parcel Identification Systems* (Chicago: International Association of Assessing Officers, February 15, 1973), pp. 10–13.

[4] Alan C. Stauffer, *Property Assessment and Exemptions: They Need Reform*, Research Brief No. 3 (Denver: Education Commission of the States, March 10, 1973) pp. 22, 77.

[5] *Assessment Mapping and Parcel Identification Systems*, pp. 57–59.

[6] Robert D. Campbell and Hugh L. LeBlanc, "An Information System for Urban Planning," Urban Planning Bulletin No. 1 (Washington, D.C.: Urban Renewal Administration, Housing and Home Finance Agency, 1965), p. 33.

[7] David Moyer and Kenneth P. Fisher, *Parcel Identifiers for Land Data Systems* (a draft of a report to be published by the American Bar Foundation, 1972), pp. IV–14.

[8] *Assessment Mapping and Parcel Identification Systems*, pp. 28–29.

[9] Alan C. Stauffer, *Property Assessment and Exemptions: They Need Reform*, pp. 33.

[10] William L. Shoemaker, "Tax Mapping," *Proceedings of the 1967 Northeastern Regional Conference of Assessing Officers* (Portland, Maine: The James Sewall Company, 1967), p. 82.

[11] *Assessment Mapping and Parcel Identification Systems*, p. 41.

[12] William L. Shoemaker, "Tax Mapping," p. 81.

[13] *Ibid.*

TESTIMONY OF STATE SENATOR STENY H. HOYER, ON S. 1255, MAY 4, 1973

Mr. Chairman, members of the committee. I want to thank you for this opportunity to appear before you to testify on S. 1255. I am pleased to do so for many reasons, not the least of which is the fact that I am a constituent of one of the co-sponsors, Sen. Charles McMathias of Maryland.

My name is Steny Hoyer. I am a resident of Prince George's County, Maryland, and represent the southern half of that county in the Maryland Senate. During the seven years that I have been a member of the Senate, I have served on the Senate Finance Committee, which has the combined responsibilities of your appropriations and Finance Committees in that it is concerned with both budgetary and tax matters. In addition, I serve as Chairman of Maryland's Joint Commission on Intergovernmental Cooperation and represent our State on the Executive Committee of the Council of State Governments. I also serve on the National Legislative Conference's Intergovernmental Relations Committee and I am a member of its subcommittee on government operations.

Let me add at this time that I am not here today representing either the views of my Commission or of the National Legislative Conference. The latter groups Intergovernmental Relations Committee will meet in June to make recommendations which will be considered in the mid-summer by the annual meeting of the NLC in Chicago, Illinois.

First, let me say that I am not one who believes that the property tax as such has enough redeeming virtues to justify its retention. I believe that even assuming completely equitable and efficient administration of this tax that it would still be an anachronism left over from the days when property owners did, in fact, send part of their property, be it wheat, or cattle or the like to the central government in exchange for the protection that that government could provide. Notwithstanding my personal prejudice, it is apparent that this tax will be with us for a long time to come.

Indeed, from recent election returns, throughout the country, it would appear that although the voter abhors the property tax, he may well fear the alternative increase in sales and income tax even more. This concept was stated by Mason Gaffney in his presentation to the President's Advisory Commission on Intergovernmental Relations on September 14, 1972, when he observed that that property tax relief was in reality "Sales tax aggravation, or income tax or payroll."

In light of our inability or unwillingness to abandon or substantially decrease the property tax, it is necessary to increase, to the extent possible, the equity of that tax

I believe that S. 1255 is a step in that direction.

In the past session of the General Assembly of Maryland, more than a score of substantive bills dealing with the property tax were introduced and considered. These bills dealt with both the administration and the relief of the burden of that tax.

The most substantive of the bills to be enacted was H.B. 531, which by 1976 will have transferred full responsibility for the administration of the assessment function from its currently shared status to a fully state operated and funded one. We believe that this will move Maryland toward the end of realizing uniformity in its assessment procedures and policies throughout the state. It will also remove the cloud of suspicion over the assessor's head that local officials pressure him to raise assessments so that they need not raise the rate. (Parenthetically, I would say that as long as the base of property appreciates at the rate it is today, no amount of equity in assessment policies is going to give relief to the majority of property tax payers.)

P.G. EXAMPLE

In addition to legislation dealing with the administration of the property tax, there were a number of bills which were introduced to adopt the circuit breaker concept. One of those bills, S.B. 1090, was a major piece of legislation dealing both with reform and relief, and was sponsored by the Chairman of the Senate Finance Committee, who is also the majority leader. Had this bill passed, it would in my opinion, have substantially met the criteria for State Action established in S. 1255.

The cost of S.B. 1090, which as introduced extended relief to both owners and renters, would have been approximately $31 million. Although the relief granted was minimal to all but those below the 10,000-dollar income level, and therefore, politically not an answer to the cry for property tax relief, which comes most forcefully from the middle income homeowners whose household income in my area is between $10–20,000.00, it was a necessary step.

There was another similar bill introduced which authorized local subdivisions to adopt a circuit breaker, provided they funded it themselves. For all but a few subdivisions, this would have been an illusory act in that they could not have afforded to extend the relief because it would have simply meant a shift to those in a slightly higher income bracket.

It is imperative, therefore, for the states to fund any relief program proposed. In order to achieve that end, I believe funding incentives, such as are included in S. 1255, are essential.

Under the funding provisions of your bill, Maryland would be entitled to approximately $24 million. While that amount is certainly helpful and desirable, it is not substantial in light of total revenues in 1970 of $561 million in property tax.

Contrary to the views of the ACIR, which I understand was closely split on this question, I believe the federal government does have a role to play in property tax reform. I believe the State can beneficially use both the technical assistance available from the central government and the fiscal assistance necessary to preclude a mere shifting of the state and local tax from property to the local jurisdictions income or sales tax.

The efforts at reform and relief that I have observed in our State have convinced me that the fiscal magnitude of the problem and the complexity of the administration of this tax demand and need the efforts of every level of government, if meaningful results are to be realized.

S. 1255, nor any other single piece of federal or state legislation, is not a full solution to the problem. But it does address itself to some very fundamental and needed reforms. Its provisions for full disclosure of procedures and practices in assessments is

necessary and I know is supported by the Maryland General Assembly.

The need for its provisions for checks on mass appraisal firms has been very cogently demonstrated to the NLC's Government Operations Subcommittee, by Clifford Allen of Nashville, Tennessee, whom I understand has already testified before this Committee.

My only fear and the fear of so many state officials is that there will be a slip between the cup of authorization and the lip of appropriation. Notwithstanding that fear, I would hope that the Congress would take the step proposed in S. 1255.

PREPARED STATEMENT BY CYRIL F. BRICKFIELD, LEGISLATIVE COUNSEL, NATIONAL RETIRED TEACHERS ASSOCIATION AND AMERICAN ASSOCIATION OF RETIRED PERSONS, BEFORE THE SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS, U.S. SENATE, ON S. 1255, MAY 4, 1973

NRTA–AARP STATEMENT: PROPERTY TAX RELIEF AND REFORM

I am Cyril F. Brickfield, Legislative Counsel of the National Retired Teachers Association and the American Association of Retired Persons, affiliated, nonprofit organizations representing a combined membership of over five million one hundred thousand older Americans. I am accompanied this morning by James M. Hacking, a member of my staff.

Our Associations appreciate the opportunity to appear before this Senate Subcommittee in order to present, on behalf of older persons in general and our membership in particular, our comments with respect to the correlative needs for property tax relief and administrative reform and with respect to the merits of S. 1255, the Property Tax Relief and Reform Act of 1973,[1] as a means of achieving those ends.

I. Introductory remarks

Our Associations fully appreciate the ascendancy and inevitability of the property tax among the revenue-raising mechanisms available to local government. Historically, it has helped to perpetuate our federalized system of government by promoting local autonomy. Through jurisdictional variations with respect to rates, the tax base and the manner of administration, it has manifested its responsiveness to local needs and interests. Above all, it has demonstrated a uniquely reliable capacity to generate revenue—currently at the rate of 40 billion dollars per annum—and at little cost.[2] While, it, therefore, appears necessary to accept the continued existence of the property tax, it is not, however, necessary to accept its more egregious deficiencies—its disregard of taxpaying ability and its administrative inequities.

II. The property tax burden on the elderly and other low-income groups

Our Associations, in a September 18th letter to Mr. William R. McDougall, Executive Director of the Advisory Commission on Intergovernmental Relations, vigorously concurred in the Commission's characterization as a "national scandal" the property tax burden on the elderly homeowner and renter. While his income is relatively fixed, there is nothing fixed about the property tax. Since January 1969, this tax has increased by 36 percent, nearly twice the rise in the overall cost-of-living.[3] In some communities, this regressive tax has doubled and even tripled within the last decade.[4]

More than any other age group, the elderly, with reduced taxpaying ability, have been burdened by this anachronistic revenue-raising mechanism. Aged homeowners pay, on the average, about 8.1 per cent of their incomes for real estate taxes.[5] In contrast, the non aged homeowners pay, on the average only 4.1 per cent.[6] The ACIR has disclosed that aged homeowners living in the Northeast on an income of less than $2,000 a year pay almost 30 per cent of their income into this tax system.[7] On a nationwide basis, the property tax collector is the recipient of 15.8 per cent of the annual income of elderly homeowners in this same income class.[8] Even more outrageous is the realization that almost one out of every five elderly homeowners—or approximately 1.3 million persons—falls within this category.[9]

The accuracy of these statistics and the dimension of the need they describe, are supported by the empirical evidence our organizations have received over the years through membership correspondence, a representative sampling of which is contained in appendix I. Repeatedly, members have described the personal sacrifice endured by them in purchasing and attempting to retain a home, and the anxiety, frustration and utter desolation felt by them in their retirement years as that home is gradually, but inexorably taxed out of their possession. There is obviously little fairness and no flexibility in a revenue raising mechanism which requires the payment of the property tax bill, determined without regard to the homeowner's ability to pay, or the sale of the property to someone who can. Moreover, the deficiencies inherent in this tax mechanism are aggravated by the often haphazard, irrational, inequitable assessment administration.

III. Response of the ACIR—Property tax relief

Our Associations are dismayed that the Advisory Commission on Intergovernmetal Relations, having acknowledged the scandalous proportions of the property tax burden on the elderly, failed to recommend in its report on school finance and property tax relief,[10] the enactment of legislation to make federal funds available to the states as an incentive to provide limited property tax relief for lower income groups and to improve tax assessment and administration practices,

As the rationale for rejecting a federal incentive grant program for promoting property tax relief, the report of the ACIR states:

"Given a few more years, there is reason to believe that the states will resolve the problem of property tax overburden especially for the low income elderly . . .

"Federal incentive grants should not have to be used to induce States to do something that is morally right, highly popular, and relatively inexpensive. All of the States have sufficient fiscal capacity to underwrite a limited property tax relief program for low-income households.

"[Federal incentive grants] would reward those States that force their local governments to make heavy use of the property tax and shortchange those States that make above-average use of non property tax revenue . . . [Such an incentive grant program] with its own set of guidelines and controls would add to an already overburdened Federal aid structure." [11]

Our Associations concede that some progress has been made at the state level, especially in recent years, in establishing property tax relief programs for elderly homeowners. Indeed, some relief provision has already been adopted by forty-four states.[12] Twenty-three of these states have programs that are solely state-financed.[13]

We also concede the apparent fiscal capacity of the states to finance property tax relief programs for low-income groups. Moreover, we are cognizant of the difficulty involved in drafting federal incentive fund legislation that will not inadvertently reward those states which have forced their local entities to rely heavily on the property tax, and we share the ACIR's concern over adding yet another burden to the federal aid structure.

Our organizations are not, however, persuaded by the ACIR's rationale, that the issue of property tax relief should be left to the states. Nor was the Administration which has elected to include a property tax credit for the elderly among its federal tax reform proposals.[14] The fact that progress has been made at the state level with respect to providing property tax relief does not mean that such progress will continue. Moreover, the relief programs that have been established are not of consistently high quality and effectiveness. Income ceilings for eligibility vary greatly.[15] Some are quite low.[16] Only nine states provide some form of relief to elderly renters and only three to low income groups regardless of age.[17]

The mere fiscal capability of a state to finance acceptable property tax relief does not automatically convert such relief into a state expenditure priority. Nor does the popularity of such relief or its moral or equitable justification convert such relief into a legislative priority. In the absence of a federal incentive, our organizations believe that effective, state financed, property tax relief programs for low-income groups are far less likely to be enacted.

In view of the extent to which the property tax tends to undermine the goal of providing adequate income security for the poor and the elderly through federal assistance and social insurance programs, our concern over adding the burden of another federal aid program is dissipated. We believe that such a program has the potential to assure high quality, property tax relief and fundamental administrative reform on a nationwide basis. The dual prospects of lessening the burdensome impact of this regressive revenue-raising mechanism on low-income groups and of promoting more equitable treatment of taxpayers through assessment and administrative reform persuades us that such a federal aid program is both desirable and necessary.

IV. NRTA–AARP position with respect to title III of S. 1255

Our Associations enthusiastically support the federal aid program of Title III of S. 1255 as an acceptable means of effecting property tax relief and reform. An amendment to the Internal Revenue Code to provide a credit against federal income tax liability (or in the absence of such liability, a refund) for property taxes paid would also provide relief and, in the absence of a preferable legislative alternative, would enjoy our support. However, we believe that the federal aid program of Title III is preferable, since the continued availability of federal funds under the program would be contingent upon conformity with the assessment and administrative reform of Titles IV and V.

We note with approval the minimum standards of section 302 of Title II under which relief would have to be available to both homeowners and renters. We also approve the graduated income schedule of subsection (d) of section 302 under which the amount of relief available would diminish as income rises. We find the standards of this section are more liberal and flexible than those of section 3 of S. 471, the Emergency Property Tax Relief Act.[18]

V. Response of the ACIR-property tax assessment and administrative reform

If the property tax is ever to become an acceptable means of financing the residual cost of local government, it must be administered equitably and at not more than moderate cost. The report of the ACIR on school finance and property tax relief acknowledged that:

"[I]nequitable assessments tend to increase public disenchantment with the property tax because they result in random and

Footnotes at end of article.

unwarranted tax burden differentials. Moreover, poor assessment practices lead to taxpayer confusion about, and distrust of, the property tax system." [19]

Obviously, the ACIR recognizes the relationship between inequitable assessment practices and taxpayer hostility to the property tax. Indeed, in 1963 the Commission issued recommendations for strengthening the administration of property taxes in the states. Since that time most states have taken some action to strengthen and reform property tax administration.[20] However, the ACIR concedes that progress is slow and cites the following as the reason.[21]

"Tax administration is an ancillary and unglamorous aspect of government activity and initiatives for spending additional funds to improve it are usually given the lowest priorities. Indeed, the amounts that are now being spent by the State governments in supervising property tax administration are generally meager. Many States spend as little as one-twentieth or one-thirtieth of one percent of local property tax collections for this function." [22]

Despite these findings, the Commission recommended against the enactment of legislation to provide federal funds to encourage the States to improve assessment administration stating:

"Enactment of this proposal would represent still another attempt to dictate State and local spending priorities . . ." [23]

In the opinion of our Associations, the very fact that property tax assessment administration has received such a low priority by state governments during the last decade, despite taxpayer discontent, the ACIR assessment reform recommendations, and the arguments of equity, makes it an ideal subject for a federal categorical aid program.

Our support of federal legislation designed to induce assessment reform is, however, tempered by cost considerations. It is probably not possible for every taxing jurisdiction to achieve acceptable assessment administration within the limits of reasonable cost. Centralizing the assessment function or the resources available therefor, on a multi-jurisdiction or state-wide basis may be necessary in instances where the taxing jurisdiction raises inadequate per capita property tax revenue.

VI. *NRTA-AARP position with respect to titles IV, V, and VI of S. 1255*

Our organizations wish to express their support for the grant and loan programs of section 401(a) of Title IV. Their availability should accelerate state compliance with the data gathering, publication and appeal procedures of sections 402, 403 and 404 and should be considered a necessary adjunct to the provisions of section 305 of Title III which predicates the continued availability of federal funds to otherwise qualified state relief programs upon such compliance.

We feel that the provisions of Title IV will promote more equitable treatment of property taxpayers and will assuage taxpayer dissatisfaction with irregular assessment practices and appeal procedure. We consider the provision of paragraph 1 of subsection 403(a) to be essential to achieving more uniform assessment and greater equity. Furthermore, we consider the publication requirements of section 402 and 404 (requiring annual publication of, and access to data with respect to assessment-sales ratios in each taxing jurisdiction) and the notification requirements of paragraph 2 of subsection 403 (a) essential to the effectiveness and fairness of the assessment appeals procedure required by paragraph 3 of subsection 403 (a). Requiring the assessment and separate public listing of tax-exempt properties under paragraph 1 of subsection 405(a) and the publication of revenue losses attributable to the exemption of such properties under paragraph 2 thereof should aid in restoring the credibility of the present system by exposing to public scrutiny an avenue of potential abuse.

While the position of our organizations with respect to Title IV is highly favorable, we believe that paragraph 3 of subsection 403(a) should be revised to specify in greater detail the means by which assessments may be appealed. The 1963 recommendations of the ACIR called for review machinery having a two-level organization, with both the local and state agencies serving only an appellate function and being professionally staffed by persons performing only this function. This would serve to reduce the possibilities for conflicts of interest and thus assure objectivity and fairness.

The loan program authorized by section 501 of Title V of the bill should, as with the grant and loan programs authorized under section 401, accelerate state compliance with Title V's objectives. Considerable progress in improving the quality of assessment should result from inducing, through the authorized loan program of section 501 and coercing, through the penalty provision of section 305, conformity with the certification, training and cost-sharing guidelines of section 502. Since improved assessment practice will add, perhaps considerably, to the cost of administering the property tax, and since individual taxing jurisdictions may lack the necessary resources, the cost-sharing guideline of paragraph 4 of section 502 is obviously essential. With respect to the certification guideline of paragraph 1 of section 502, however, it would appear desirable to require, as suggested by the ACIR,[24] that appraisers and assessors be appointed to office and that no person be permitted to hold such office in the absence of state certification.

The state assistance described in paragraph 4 of section 502 should contribute to the maintenance of accurate, current and complete data with respect to property, improvements and valuation and, in turn, contribute to improved assessment practice. Property assessment within a taxing jurisdiction can only be as accurate, fair and complete as the data on which such assessment is based.

As described in Title VI, the federal assistance to training and technical programs appears consistent with the limited federal role contemplated in the bill. Since federal assistance in the training appraisers and assessors and in conducting assessment-sale ratio studies should reinforce the immediate objective of Titles IV and V and the ultimate objective of improved assessment practice, such assistance merits our support and the support of this Subcommittee.

CONCLUSION

The dual objectives of S. 1255—property tax relief and reform—are issues of paramount concern to the combined membership of our organizations. Too many of our own members have suffered the gradual erosion of their limited retirement incomes by ever increasing property tax levies. If the volume of our correspondence on this issue is any indication, their willingness to accept even higher property tax levies and their patience in waiting for effective state relief are at an end. Too many states have failed to enact relief programs, and many of those which have acted, have enacted programs of questionable quality, fairness and effectiveness.

Our Associations appreciate the need for intervention by the Federal Government, in a limited and well defined manner. We feel that a program of federal aid, designed to induce the states to enact effective property tax relief for low-income groups, would minimize the federal role in achieving the objective of property tax relief. The initiative would rest with the states.

Our Associations support the approach adopted in S. 1255 as the means of effecting property tax relief at the state level. The program in this bill would leave the states the option of acting as the initiators of relief and reform and would provide the limited financial stimulus necessary to induce the states to exercise that option.

By making the continued availability of federal funds to qualified state property tax relief programs contingent upon assessment administration reform, S. 1255 would serve to accomplish a second, an increasingly desirable objective—property tax reform.

Our Associations urge that S. 1255 be considered by this Subcommittee in the light of the testimony offered during the course of these hearings, be strengthened and improved where desirable, and be favorably reported to the full committee.

FOOTNOTES

[1] S. 1255, 93d Cong., 1st Sess. (1973).
[2] ACIR, financing schools and property tax relief—State responsibility, A–40, 16 (Table 1) (January 1973) (hereinafter referred to as ACIR Report).
[3] 119 Cong. Rec. 952 (daily ed. Jan. 18, 1973) (remarks of Senator Church).
[4] *Id*
[5] *ACIR Report*, supra note 2, at 18 (Table 3).
[6] *Id.* at 19 (Table 4).
[7] *Id.* at 18 (Table 3).
[8] *Id.*
[9] 119 Cong. Rec. 952 (daily ed. Jan. 18, 1973) (remarks of Senator Church).
[10] *ACIR Report*, supra note 2.
[11] *Id* at 4.
[12] Subcomm. on Intergovernmental Relations of the S. Comm. on Gov. Operations, 93d Cong., 1st Sess., Status of Property Tax Administration in the States 17 (Comm. Print 1973) (hereinafter referred to as Subcommittee Report).
[13] *Id.*
[14] Dept. of Treas., *Proposals for Tax Change*, 118 (April 30, 1973).
[15] Subcommittee Report, supra note 12 at 18.
[16] *Id.*
[17] *Id.*
[18] S. 471, 93d Cong., 1st Sess (1973).
[19] *ACIR Report*, supra note 2, at 5.
[20] *Subcommittee Report*, supra note 12, at 1.
[21] *ACIR Report*, supra note 2, at 5.
[22] *Id.*
[23] *Id.* at 6.
[24] *Subcommittee Report*, supra note 12, at 7–8.

APPENDIX 1

SEPTEMBER 13, 1972.

BERNARD E. NASH,
Executive Director, NRTA–AARP,
Washington, D.C.

DEAR MR. NASH: Your article in September issue of "News Bulletin" is very interesting.

I am in the position of many other oldsters. My years were planned with view of self-support if retirement age was reached. A home was purchased and some years later paid for; kids went to college; took part in local affairs; obligations cared for and on June 16th, last, reached my 81st birthday.

In 1940 I purchased a home (built in 1916) for $6,000.00, assessment was on basis of $5,000.00; taxes $126.00. Valuation of the property was gradualy increased until it reached $18,000.00 in 1970. Last year a corps of outside assessors was brought in and my assessment was increased to over $41,000.00.

I will "weather the storm" but thousands of other aged have not, and will not.

Many of us seek but one situation; a reduction in real estate taxes or a moratorium.

Of the many mistakes in a long life there are two glaring ones; I could not forsee or

avoid; inflation, nor refrain from becoming 81 years of age.

Thank you.

Sincerely,

——— ———.

SEPTEMBER 18, 1972.

Re 160–65–16.

Mr. KEN R. KUNES,
County Assessor,
Phoenix, Ariz.

DEAR MR. KUNES: On Sept. 8, we received our tax statement. We were shocked to see the tremendous increase.

In 1970, the tax was	$334.72
In 1971	371.06
In 1972	462.66

The answer we received at the visit to the tax offices on 111 S. 3. Ave., Monday 9. 11 was, that the property was re-assessed, as the prices of the homes increased. This was partly understandable, but in our section the sales value has not increased in proportion to the new assessment.

We bought our homes as a retirement home and do not intend to sell it, so there is no profit for us to gain. We did not build any addition to the property.

We keep our place in ship-shape order. Your assessor, no doubt was impressed and punished our hard work with an excessive revaluation and higher taxes.

We live on a very modest income and don't believe your office is trying to tax elderly, retired people out of their homes.

Kindly look into this matter and oblige.

Very truly yours,

——— ———.

OCTOBER 5, 1972.

To: The American Association of Retired Person.

From: The people on pension from Roselle City, N.J.:

We worked all our life, we raised our children and we helped to raise our grandchildren, we could not save much money, but we bought small (mostly 4 rooms) houses with the small gardens in order to enjoy the old ages and have the place to sit in the garden and to breath the fresh air, when we will not be able more to work. We payed off the houses.

Now we are not able to work more and our city raised the property tax on our houses (from 300 dol. to 900 dol.) that we will not able more to pay this tax. To sell the houses, where we lived so many years and where to go? The apartments are so expensive, that in couple years all our money that we will get from our houses will go. The situation is so desperate that many of us getting sick,

Please help us to save our small houses to stay there and to die there in peace blessing our government and our country.

Henry R. Juschtemo and my all neighbours on pension.

I wrote a letter to our Senator Barry Goldwater. Asking if there is not some way we oldsters can get some tax relief. Explaining the enclosed reply. I live in a modest desert lot and mobile home. I just recently lost my wife (of 53 years). That, of course cut our S.S. severely but we were surviving on it. I just got my tax notice which had been raised 200% in the past year. I am 79 years old and totally disabled.

You no doubt have many such letters, but surely there must be some relief for such as us. We had never taken a cent from any branch of relief.

That petty no sales tax on perscriptions means nothing. Locally they merely raised their prices. In one month our perscriptions were over $100.

Just so you know what is going on in some places.

DEAR SIR: I don't know where it is best to send this. Will you please see that it gets into the hands of those it will do the most good.

DeKalb is a small town and the population of the school exceeds ours. Something should be done about this quickly. It is bad enough that whenever either city, state or county find a few extra dollars the first thing they do is raise their wages.

In every way the raise for senior citizens was quickly taken up by taxes. I'm paying $1,150 on a 43 year old home that cost $16,000. I know you can and do help. Thank you I'm a member

AMERICAN ASSOCIATION OF
RETIRED PERSONS,

To Whom It May Concern:

I am writing to ask if there can be anything done about the big school tax older people have to pay. We are members of A.A. R.P. Number 3706572. (Violet & Arthur Ketchel) I realize it is properly a State affair but we just wondered. We do not care about land tax at our home but we pay a few cents less than $700 for school tax. We don't mind a little but our taxes are nearly $1000. We have a small swim resort that has paid off very poorly the last 5 years due to our wet cold weather. We have worked hard to save our place for a home in our old age and only reply we can get from some is "Sell it if you can't manage." Is this fair after you worked so hard and long to save yourself a place for old age? We sent our children to school and no one helped us. Why does one have to pay such a large school tax? If there is anything you could do to make them let up on older people we would appreciate it and could we have a answer on this please? One way or other. The state won't seem to do anything. Thank you in advance.

Mr. BERNARD E. NASH:

DEAR SIR: There is something which concerns the elderly and should get immediate attention. (Real Estate Taxes) it seems to get a passing remark once in a while but that's all in spite of the fact that nearly every one in authority believes something should be done about it. Including the Governor of my State of New Jersey, Mr. Cahill. Even the President says something should be done but nothing is being done about it.

I am 70 now and by the time they do get around to it I will either be dead or forced to sell my home, and there must be a million others in the same position.

They claim its unconstitutional but they keep on trying just the same. Maybe the A.A.R.P. can do something to help push this along.

FEBRUARY 24, 1973.

DEAR SIR: I am one that wants tax relief for the elderly people. So true elderly people are being taxed out of their homes and put in nursing homes and county and hospital insurance caring for hem.

There should be a better way out for me. I got double homestead tax and paid 112.78 per year 1971. The federal government freezes your tax and the state or county come along and raises the value of your house so they raise your tax and it's more than I paid before the freeze now $139.18 per year.

That's a lot when you can't work anymore and have been a widow for 30 years.

Is there anything that can be done about it? (Tax for elderly.) I don't want to sell my home and be on County and in a home for elderly.

SIRS: I joined A.A.R.P. a few months ago and am pleased with the news bulletins and would like to add my voice to the protests against high taxes.

My wife and I retired to this section of Cape May County in 1962. My taxes then were $120.00 a year on a small 4 room ranch type home. They have gone up every year until now. My 1972 taxes were $351.00 of which 75% were school taxes. I have been paying school taxes for 44 years to put 3 children thru High School and I think I have paid my share of education and helped build enough schools. I don't think I should have to pay any more school taxes. I am paying more now than I did in my working years and it is coming out of my Social Security, and I have no other income so you can figure what we have left to live on. So I am asking the Asso. to work for the abolition of school taxes for the elderly.

[From the Nashville Tennessean, May 4, 1973]

MUSKIE RAPS APPRAISAL FIRM CONFLICT "LOOK"

(By Elaine Shannon)

WASHINGTON.—Sen. Edmund Muskie, D-Maine, admonished yesterday the president of a property appraisal firm employed by Nashville for displaying "the appearance of conflicts of interest" through its affiliation with a privately employed appraiser.

"The appearance of this is almost as critical to public confidence as the reality," Muskie told William Gunlock, president of Cole-Layer-Trumble Co. (CLT), a mass property appraiser whose sister firm, American Appraisal Associates, serves private business and industry.

Muskie, who is investigating property tax procedures, expressed particular concern about disclosures that E. Randall Henderson, former assistant director of Tennessee Division of Property Assessments, had been paid $60,000 by CLT for his interest in a bankrupt mapping company four months after he left state government.

Henderson had signed approval of contracts for several county jobs for CLT, the largest of which was a $2.5 million job in Knox County, Muskie's committee, the Senate Subcommittee on Intergovernmental Relations, was told in testimony by Albert Gore Jr., a reporter for the Tennessean.

In response to Muskie's statement about the appearance of a conflict of interest, Gunlock said:

"Under no circumstances was there any conflict of interest, was any wrongdoing, no matter how it looks."

"If I'd been in Mr. Henderson's shoes," Muskie replied, "I'd never got myself in that situation."

Earlier in the day, CLT officials and Metro Tax Assessor Clifford Allen exchanged barbs about the quality of the firm's work. Allen is suing CLT, alleging conflict of interest on the grounds that the firm, the nation's largest mass appraisal company, had given "consistently low" assessments to major industries and businesses.

Allen pointed to reports that CLT appraisals of service station property averaged "less than 44% of what the companies had paid for them." He said that he had been refused information on whether the stations were owned by oil companies who used the services of American Appraisal Co., an affiliate of CLT.

He also noted a Monday decision by Nashville Chancellor Ben Cantrell that CLT had violated state law in its appraisal of rural property, a decision which would affect 40% of the land in Davidson county.

Gunlock, in turn, accused Allen of laxness in his own past assessments. The tax assesser had consistently valued farm and residential land at rates far lower than those required by state law, he said.

"I'm not criticizing what Mr. Allen did," Gunlock said, "other than to say we corrected that situation which set off a chain reaction

that was at least partially politically motivated."

Gore, who has written a series of articles about general appraisal procedures in the state, summarized his findings before Muskie's committee.

Gore said he had found that:

Following 1967 court decisions which ordered reassessment of property, the state spent $22 million. "And much of it was wasted," he said, through defaulted contracts and delays.

Assessment firms, lured by the prospect of "an entire state full of lucrative contracts," lobbied for jobs with "whisky, country hams, and free wheeling campaign contributions," Gore said, "an unpromising situation for a program whose goal is equity."

CLT bought the debt-ridden Tennessee Mapping Co. and Engineering Services company from Henderson and Robert C. Johnson, both former state property assessment officials, for $120,000.

Henderson, deputy head of the state office which controls local assessment work, had signed approval of jobs for CLT.

Henderson had signed approval of mapping contracts for L. Robert Kimball, who was associated with him in a venture called Outdoor Resorts.

Property owners dissatisfied with their assessments were forced to appeal to a state government hearing office directed by Henderson, "the same man . . . administering the mapping and reappraisal program."

After Gore's testimony, Muskie took two state officials to task for failing to initiate their own inquiry into the allegations of conflicts of interest and collusion.

William O. Beach, vice chairman of the state Board of Equalization, contended that neither the board nor the state attorney's office had the power to launch an investigation. He said that the matter should be settled through litigation, now proceeding in Nashville and Knoxville courts.

"It would seem to me to be a prima facie case of mishandling of this whole case that would merit further inquiry," Muskie said.

"What have you done about it?"

"What can we do about it?" Beach replied, explaining that the equalization board is "not equipped to handle such inquiries."

"I would have done something more about it than you appear to have done. You could default on contracts, couldn't you?" Muskie continued.

"You have a board, you can ask questions."

Beach said the board had decided that some of the allegations were "unfounded" and "in some cases, politically motivated."

"How can you make that decision without a formal inquiry," Muskie persisted.

"The State Board of Equalization," Beach said, "has never conducted a formal inquiry of this kind."

[From the Nashville Banner, May 5, 1973]

MUSKIE INCLINED TO AGREE WITH ALLEN ON CLT TIES

(By Frank Van Der Linden)

WASHINGTON.—After hearing both sides of the argument, Sen. Edmund Muskie, D-Maine, is inclined to agree with Metro Assessor Clifford Allen's claim of an improper tie between the Cole-Layer-Trumble Co., and the American Appraisal Co.

Muskie, as chairman of a Senate subcommittee studying property tax law reform, heard Allen thundering his charges Thursday afternoon, and then listened to CLT president William L. Gunlock's emphatic denial of any conflict of interest.

Allen, who dramatically left a Nashville hospital bed to testify, said that "in the parlance of the international spy thrillers we see on TV," the American Appraisal Associates, Inc. of Milwaukee has two subsidiaries—the CLT company of Dayton, Ohio, appraising real estate for local and state governments, and the American Appraisal Co. which "acts as a secret double-agent" for property owners seeking lower valuations.

Thomas Wardlaw Steele, Nashville attorney for CLT, said Gunlock was "prepared to say he didn't know a single private client of the American Appraisal Co."

Steele said Allen was "wholly unable to substantiate his charges or to show that any revaluation by CLT favored the clients of the American Appraisal Co."

Muskie, noting that both were affiliates of the same Milwaukee concern, asked: "Isn't the association improper on its face?"

The Maine senator also asked, "Do you think it's a healthy arrangement that might compromise the objectivity of one side or another?"

Gunlock insisted that the two companies never became involved in ad valorem cases on "opposite sides of the table."

But Muskie said, "I don't think the public will be satisfied" with that assurance."

Gunlock retorted that Allen himself "has a conflict of interest because he owns property in Davidson County."

Allen waved Monday's Nashville Banner with its front-page streamer headline on Chancellor Ben Cantrell's decision overturning CLT's appraisals of Davidson County rural property.

"This means that 40 per cent of all the land in Davidson County will have to be reappraised by the local board of equalization because CLT violated both its contract and the laws of Tennessee," the assessor said, "These five men do not have the strength and endurance to hear all those people."

He predicted the resulting "Mess" would "stop bona fide farming" and drive the rural land into the hands of real estate speculators.

In reply, Steele said "the chancellor specifically found that while the so-called conflict of interest seems serious on its face, there is nothing in the record to prove it."

"The chancellor issued a gratuitous advisory opinion on the validity of the rural land values," the lawyer said. "Yes, he said they violate the law but he did not issue any injunctive relief."

Gunlock said "Allen did not really want the revaluation done by a professional firm, but he was told by the state to have it done." Gunlock said that when CLT was hired to make the mass appraisals, Allen told Mayor Beverly Briley, "You have selected the finest appraisal firm in the country."

The CLT president quoted Briley as saying: "Mr. Gunlock, those are the last kind words you'll hear from this man's mouth during the life of this contract."

"I know now what he meant," Gunlock commented.

"UNFAIR ATTACKS"

Gunlock also complained that his firm, the largest in its field, is being unfairly attacked by Ralph Nader's "crowd" and by "a politician who uses CLT to advance his cause."

Contrary to Allen's charges, the appraisal firm's president insisted there was "no wrongdoing" in his company's purchase of the bankrupt Tennessee Mapping and Engineering Services, Inc., for a $120,000 cash payment to its owners, E. Randall Henderson and Robert C. Johnson.

Henderson was involved in this transaction while still assistant director of the State Division of Property Assessments, Allen said, but Gunlock denied knowing anything about any conflict of interest.

Muskie said this episode showed "a certain naivete which we in politics don't embrace."

"If I were in Henderson's shoes, I would not have allowed myself to get into that situation" the Maine Democrat said.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

VOTER REGISTRATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the unfinished business, S. 352, which the clerk will state.

The legislative clerk read as follows:

S. 352, to amend title 13, United States Code, to establish within the Bureau of the Census a Voter Registration Administration for the purpose of administering a voter registration program through the Postal Service.

The Senate resumed the consideration of the bill.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CLOTURE MOTION

Mr. MANSFIELD. Mr. President, I send to the desk a cloture motion and ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the pending bill, S. 352, a bill to amend title 13, United States Code, to establish within the Bureau of the Census a Voter Registration Administration for the purpose of administering a voter registration program through the Postal Service.

Mike Mansfield, Robert C. Byrd, William D. Hathaway, Harold E. Hughes, George McGovern, John O. Pastore, Edward G. Brooke, George D. Aiken, Robert P. Griffin, Daniel Inouye, Lee Metcalf, James Abourezk, William Proxmire, Gale McGee, Alan Cranston, and Joe Biden.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily, with the proviso that it will be subject to recall as the unfinished business, as has been the case up to this time.

Mr. ALLEN. Mr. President, reserving the right to object—and I shall not object—this measure would come up, would it, and then would return to become the unfinished business, which is the voter-registration-by-postcard bill? Is that correct?

The PRESIDING OFFICER. The Senator from Alabama is correct.

Mr. ALLEN. I should like to inquire of

the distinguished majority leader whether there has been any disposition on the part of those debating the postcard registration bill to impede in any way the orderly procedure of the Senate; that is, to allow the Senate to take up any bill which the majority leader desires to have brought before the Senate.

Mr. MANSFIELD. On that basis, the answer is that there has been nothing but cooperation.

Mr. ALLEN. I thank the majority leader. I withdraw my reservation of objection.

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

PUBLIC BROADCASTING

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar 117, S. 1090, and that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1090) to amend the Communications Act of 1934 with respect to recess appointments to the Board of Directors of the Corporation for Public Broadcasting and to extend certain authorizations for such Corporation and for certain construction grants for noncommercial educational television and radio broadcasting facilities.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported by the Committee on Commerce with an amendment on page 2, after line 14, insert a new section, as follows:

SEC. 2 Section 399 of the Communications Act of 1934 is amended by inserting "(a)" after "Sec. 399." and by inserting at the end thereof the following new subsection:

"(b)(1) In order to assure compliance with this section and with other provisions of this Act requiring fair treatment of matters in the public interest, every licensee of a broadcast station which receives assistance under this title shall make audio recordings of each broadcast of a program in which issues of public importance are discussed, and shall maintain such recordings for a period of sixty days from the time such program is broadcast. Copies of these recordings shall be made available to the Commission upon its request, and to any member of the public upon payment of the reasonable costs associated with the making of such copies: Provided, That the foregoing requirement may be satisfied by retention of the audio tape by the Corporation for Public Broadcasting or any authorized entity.

"(2) The Commission shall by rule prescribe the manner in which such recordings shall be kept, and the conditions under which they shall be available to the members of the public, giving due regard to the goals of eliminating unnecessary expense and effort and minimizing administrative burdens.".

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 (a) section 396(k)(1) of the Communications Act of 1934 is amended to read as follows:

"(k)(1) There is authorized to be appropriated for expenses of the Corporation $55,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975."

(b) Section 396(k)(2) of such Act is amended by striking out "1973" and inserting in lieu thereof "1975".

(c) Section 391 of such Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 391. There are authorized to be appropriated for the fiscal year ending June 30, 1974, and each of the three succeeding fiscal years such sums, not to exceed $25,000,000 in any such year as may be necessary to carry out the purposes of section 390. Sums appropriated under this section for any fiscal year shall remain available for payment of grants for projects for which applications, approved under section 392, have been submitted under such section prior to the end of the succeeding fiscal year."

SEC. 2. Section 399 of the Communications Act of 1934 is amended by inserting "(a)" after "Sec. 399" and by inserting at the end thereof the following new subsection:

"(b)(1) In order to assure compliance with this section and with other provisions of this Act requiring fair treatment of matters in the public interest, every licensee of a broadcast station which receives assistance under this title shall make audio recordings of each broadcast of a program in which issues of public importance are discussed, and shall maintain such recordings for a period of sixty days from the time such program is broadcast. Copies of these recordings shall be made available to the Commission upon its request, and to any member of the public upon payment of the reasonable costs associated with the making of such copies: Provided, That the foregoing requirement may be satisfied by retention of the audio tape by the Corporation for Public Broadcasting or any authorized entity.

"(2) The Commission shall by rule prescribe the manner in which such recordings shall be kept, and the conditions under which they shall be available to the members of the public, giving due regard to the goals of eliminating unnecessary expense and effort and minimizing administrative burdens."

The PRESIDING OFFICER. Debate on the bill is under control. The debate on each amendment is limited to 30 minutes and on the bill to 1 hour.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a brief quorum call, with the time for the quorum call not to be allocated under the time allocation.

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

Mr. PASTORE. 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. PASTORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. PASTORE. For the purpose of the record, what is the pending business?

The PRESIDING OFFICER. The question is on the amendment of the committee to S. 1090.

Who yields time?

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

Mr. BAKER. Mr. President, I hope the Senator from Rhode Island will not yield back his time at this point. I understand the Senator from North Carolina (Mr. HELMS) may have a statement to make, and there is a possibility he may have an amendment in the nature of a substitute, and if that is the case, I am sure the Senator from Rhode Island would have remarks to make in that respect.

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

Mr. BAKER. I yield.

Mr. PASTORE. Mr. President, I withdraw my request.

Mr. BAKER. Mr. President, I do not think there is any need for a long and extended debate on this matter. We have a rather short time limitation, anyway, but I believe that the report itself comprehensively covers the bill.

By the way, Mr. President, I yield myself such time as I may require.

Mr. PASTORE. Mr. President, will the Senator yield so that I may make the opening statement, and then the Senator can take it from there, with his kind permission?

Mr. BAKER. Mr. President, I yield.

Mr. PASTORE. Mr. President, I might say, for the purpose of the record, that the bill we are considering is S. 1090, a bill which would extend the authorization for the Corporation for Public Broadcasting, and the authorization for grants, for construction of public broadcasting facilities.

It would also require all noncommercial radio and television stations receiving Federal assistance to keep audio recordings of each broadcast of a program in which issues of public importance are discussed. These audio recordings would be kept for 60 days from the time such programs are broadcast, and would be available to the public upon the payment of reasonable costs. The FCC would prescribe rules to implement the requirement.

Specifically, S. 1090 would authorize for the:

A. Corporation for Public Broadcasting

First. Fiscal year 1974—$55 million and up to an additional $5 million in matching funds.

Second. Fiscal year 1975—$75 million and up to an additional $5 million in matching funds.

B. Funds for construction of educational television and radio broadcasting facilities for the fiscal year ending 1974 and each of the 3 succeeding fiscal years such sums, not to exceed $25 million in any 1 year.

Mr. President, recently the Commerce Committee undertook what was probably the most comprehensive review of public broadcasting since enactment of the Public Broadcasting Act in 1967. The record that emerged completely justifies continued funding of the Corporation for Public Broadcasting and the construction facilities program at the levels provided in S. 1090.

When Congress enacted the Public Broadcasting Act it committed the Government to a program that went far beyond the initial $5 million appropriated as seed money. The idea was then and still is that many times that amount of money is necessary for an effective system. Ideally these funds will

be provided by long-range financing. Meanwhile, however, realistic authorizations and appropriations must be the source of funds.

The recent hearings also established beyond peradventure of a doubt the necessity for a multiyear authorization for the Corporation.

In this connection the testimony of Mr. Henry Loomis, president of CPB who unequivocally supported the authorizations in S. 1090 was especially interesting. I would like to quote what he told the committee. He said:

> The production of programs for presentation by local public broadcasting stations is, and should be a careful, time consuming process. It takes time to consult with 147 television licensees and 138 qualified radio stations on their program needs, to analyze and react to their recommendations and their proposals, to decide upon production centers, to negotiate for rights, to produce a pilot, to produce the final series, schedule and present them for use by the stations.
>
> Compressing their entire cycle into a single year means compromising on the quality of the final product. Series like BBC's "Henry VIII" and "Civilisation" cannot be planned and produced in one year. It took almost three years of research, planning, and development before the first "Sesame Street" series could be aired.

Annual authorizations not only undermine the Corporation's stability and inhibit its ability to plan adequately and effectively, they strike at the very core of the system—the development of strong local stations.

Moreover, such a procedure is fiscally unwise. As financial stability increases, so too will the ability to plan and execute projects economically.

Mr. President, public broadcasting informs and entertains millions of Americans. The contributions it has already made to our cultural and intellectual life are immeasurable. I urge the Senate to demonstrate its support for this program by enacting S. 1090.

I want to say in conclusion, Mr. President, that I have received fine cooperation from the members of the other party on our committee, particularly the Senator from Tennessee (Mr. BAKER) and also the Senator from Kentucky (Mr. COOK). They are sincere men, who are very much imbued with the public interest.

Our difficulty in the beginning was the 1-year authorization, and for that reason we had appear before us the officers and directors of the corporation, most of whom had been appointed by President Nixon and are Republicans by political stamp. They all agreed that one year was insufficient to do the planning necessary to give us quality public television, and we adopted their view. They endorsed the bill and we adopted their recommendation. We made it 2 years.

Some people think it ought to be longer than that. Others think it ought to be confined to 1 year. We tried to reach a reasonable median.

Further than that, there was a matter of money. We authorized $55 million for the first year. $45 million was requested by the administration last year, but when we had the continuing resolution bill before us, we made it $35 million, and this bill provides a pickup of $10 million, which I think is helpful.

As far as the second year is concerned, fiscal 1975, we have stipulated $75 million. That is a debatable subject. I am not going to be picayune about it, and if any compromises can be worked out, I am amenable to them.

I think we ought to get rid of this authorization proposal; before long the corporation will be completely out of funds. We have some distinguished people who serve on the corporation, who have been called in from all parts of the country—very distinguished people, I might say—for whom the President has no apology to make.

Mr. President, for that reason I would hope that we could get together and in a very short time pass the authorization and pass it on to the House.

Mr. BAKER. Mr. President, I yield myself as much time as I might require.

At the beginning I pay my special respects to the distingushed senior Senator from Rhode Island (Mr. PASTORE), who serves so ably and energetically in his capacity as chairman and principal figure on the communication Subcommittee. He has done an outstanding job. He has a remarkable grasp of the affairs at hand. This is not meant, Mr. President, to be flattery. It is no more than a simple statement of the fact. It is a sheer pleasure to work with the Senator from Rhode Island, even when we are in disagreement as we sometimes are.

Mr. President, I have a short statement to make with reference to public broadcasting and will then have a suggestion which I would like to make in order to try to expedite the Senate consideration of this matter.

It is my understanding that the Senator from North Carolina (Mr. HELMS) and possibly the Senator from Michigan (Mr. GRIFFIN) may have remarks to make or amendments to offer. Of those matters I am not sufficiently aware at this point.

I would, however, like to advise the Members of the Senate that we probably will not utilize the full time allocated to the bill.

Mr. President, last year on several occasions, and again this year during our hearings on S. 1090, I expressed serious misgivings with the structure and operation of our public broadcasting system, and particularly the Corporation for Public Broadcasting—CPB.

The first few years of experience under the Public Broadcasting Act saw the development of a centralized, national network system, but only limited support for the particular program needs of the local stations and their growing requirement for improved broadcasting equipment. Since that time the membership of the Board of Directors of the Corporation has changed and efforts are being made to establish a new relationship with local public broadcasting stations. From time to time, reports on the progress of these efforts have appeared in the press with particular emphasis on the role of the Ford Foundation. On Saturday, the Washington Post contained a column by John Carmody which again highlighted the way the Ford Foundation is using the threat to withhold $8.4 million in grants from PBS, to obtain a reorganization that is acceptable to the foundation. The article also indicates that major corporate gifts are being withheld because the questions have not been resolved in favor of the network concept.

Mr. President, such a misuse of monetary influence is exactly what we hoped to avoid when the Congress passed the Public Broadcasting Act of 1967. The Congress sought to establish a structure that would insulate public broadcasting from commercial and governmental influences. Unfortunately, we now find that we did not accomplish that purpose—some say in either respect.

The Federal Government could provide all the funds for public broadcasting. However, the dominance of any one source of funds for public broadcasting or its national program service is a real danger whether that source be the Government, a private foundation like Ford or a commercial enterprise. We cannot permit any one institution to exert an unhealthy influence and deny noncommercial television "that freedom from the constraints, however necessary in their context, of commercial television * * *"; that "freedom" the Carnegie Commission regarded as essential to a vital public broadcasting service.

We must not permit Government, commercial interests or foundations to frustrate again in the words of the Carnegie Commission:

> The freedom and excellence that will persuade creative people that [public broadcasting] is a medium through which they can best express themselves.

During consideration of the public broadcasting legislation last year, I called for greater emphasis on the needs and desires of local stations. If that is what is achieved by these reorganizations that are taking place in the public broadcasting community, I look forward with optimism to the future of our public broadcasting system. If on the other hand, another centralized network is to be established, whether it be under the auspices of CPB or the Public Broadcasting Service, we have not progressed very far since the issue was raised last year.

There is a certain irony in the fact that those who are the most vocal in proclaiming the essentiality of localism are also the most effective in creating the kind of centralized decisionmaking process that comes closest to a network form of operation in the commercial sense. Any decisionmaking process for the expenditure of appropriated funds that forecloses individual station access to CPB, the entity with ultimate responsibility under the Public Broadcasting Act, is unsatisfactory. Any such process that forecloses the access of representatives of the public to CPB is likewise unsatisfactory. CPB's job is not an easy one. Balancing local, regional, and national interests of the stations and the public is a complex task. I have every confidence that the distinguished board and management at CPB will meet the challenge. Their failure to do so would certainly compromise the value of public broadcasting to the American public.

Nothing would enhance true localism

more than equipping each local station in a fashion that gives it the real capacity to accept or reject, tape, delay, store, broadcast, or rebroadcast programs from whatever service in a locally determined schedule. We have heard testimony that only 25 percent of the stations have full video tape recording, delay and rebroadcast capability. I believe it is time for the Secretary of Health, Education, and Welfare to give a new priority to applications for video tape recorders under the educational broadcasting facilities program.

Correspondingly, I believe there must be meaningful consultation with the local stations in program development and scheduling. The Corporation is responsible under the law for the interconnection system; how it is used; what it is used for; and who uses it. This ultimate responsibility cannot be delegated or shared. As long as the Corporation received Federal funds, the Corporation must remain fully accountable to the Congress, not only for its use of federally appropriated funds, but also for the stewardship of the publicly subsidized and federally funded interconnection system.

I support S. 1090, although I am concerned about the level of funding in view of the severe budget restraints being experienced by other Federal programs. Public broadcasting does not need the instability created by continued disagreements over appropriate funding levels. I am hopeful that we can agree on a mutually acceptable solution to the problem, as there is much to be done to enable public broadcasting to fulfill its potential.

I have prepared an amendment which I do not now send to the desk for reporting by the clerk. It is an amendment which would simply reduce the funding level for the fiscal year ending June 30, 1975, from $75 million to $65 million for that period. This would provide CPB with $70 million for the fiscal year ending June 30, 1975, including $5 million in matching funds. I ask unanimous consent that the complete text of the amendment be printed at this point in the RECORD.

In the interest of time, I wonder if I might inquire of the distinguished chairman of the committee if he would discuss this matter and give me some indication of his reception to the idea of reducing the figure from $75 million to $65 million.

Mr. PASTORE. Mr. President, if the distinguished Senator from Tennessee would send the amendment to the desk, I would be very happy to accept it.

The PRESIDING OFFICER. There is a committee amendment pending.

Mr. PASTORE. Mr. President, I yield back the remainder of my time on the committee amendment.

Mr. BAKER. Mr. President, I yield back the remainder of my time on the committee amendment.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the committee amendment (putting the question).

The committee amendment was agreed to.

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 1, line 7, strike the following: "$75,000,000" and insert "$65,000,000".

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

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

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee (putting the question).

The amendment was agreed to.

Mr. BAKER. Mr. President, I see that our colleague from North Carolina is not in the Chamber. Out of my time, 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. BAKER. 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. BAKER. Mr. President, I yield to the distinguished Senator from North Carolina such time as he may require.

Mr. HELMS. I thank my distinguished friend from Tennessee.

Mr. President, the junior Senator from North Carolina is somewhat reluctant to get into the controversy surrounding the Corporation for Public Broadcasting. There are many able Senators much better versed in the complexities of this issue than I. The controversy has been going on for many months, and, as a new Senator, I realize that many arguments have been made and many actions taken long before I came to this body.

Nevertheless, having spent a considerable amount of my career in television myself, it remains an area of deep concern to me, particularly in regard to public policy for both commercial and educational broadcasting. As a former newsman, I have a keen interest in the current discussions of "freedom of the press," and the allegations by some that the administration is attempting to pressure the Corporation for Public Broadcasting and the Public Broadcasting System.

Some time ago I read into the RECORD some statements by Mr. John P. Roche in which he came to the conclusion that it was simply impossible for any government anywhere to set up a governmentally supported broadcasting system without creating a built-in bias. I agreed then and I still agree that the Government has no business in the television business particularly when the intention is to "educate" the citizens.

But the issue before us now is whether to fund CPB for 2 years at a time when CPB is in the midst of a crisis in its relations with PBS and the stations. Or, to put it another way, can we afford to give CPB that much independence when we do not know which way it is heading? It is only natural that the officials of CPB, PBS, and the public TV industry are all in favor of high funding for the longest possible period. We cannot, however, accept their arguments at face value without fulfilling our duty to give the most careful scrutiny to the problem. It seems that everybody would like to be able to do what they please without being responsible to anyone else. So we have a situation where administration spokesmen are supposed to be pressurizing the CPB Board, the Board Chairman has quit, PBS is in open confrontation with CPB, the Ford Foundation is withholding its grants until everyone conforms to its wishes, and production units are refusing to produce. Congress is just supposed to authorize the money and shut up.

Such a situation is inevitable in a governmentally supported broadcasting operation. An ideological elite captured the CPB with the help of Federal and foundation money. They set up a system with maximum centralization so that the program content was easier to control. When the administration introduced more balance into the CPB Board and recommended the dismantling of the so-called fourth network the elite screamed. This is what has actually happened, although many people associated with this controversy are pretending it is a matter of "freedom of the press."

Mr. President, in studying this bill I went back to the 1967 debate over the legislation setting up the CPB. The problems we are faced with today were farsightedly anticipated by those criticizing the bill. In particular, I was struck by the perceptive and prophetic comments of the senior Senator from South Carolina (Mr. THURMOND). In looking over them today I think that his remarks of 7 years ago were such that they could be endorsed by every political persuasion that is interested in freedom. At that time, Mr. THURMOND said:

> Despite the safeguards pointed to by the proponents of the bill, there can be no doubt but that it violates both the spirit and the letter of the First Amendment: "Congress shall make no law abridging the freedom of speech or of the press."
>
> While this bill would not abridge the freedom of any existing news media, it would set up new media financed at least in part by the Government. No one in America today believes that any media in the world, financed by any government, is truly free. By setting up a federally funded Corporation for Public Broadcasting, Congress would be setting up media that are not completely free. I believe that contributing to the growth of even a segment of news media not completely free would be an abridgement of freedom of speech.
>
> The Corporation for Public Broadcasting will have a profound influence upon the American people, and I find it strange that our American liberals are not up in arms against the proposals in this bill. Anyone who truly lives liberty must oppose this bill.

That is what the distinguished senior Senator from South Carolina said in 1967. Of course, the CPB was instituted under a Democratic administration. Instead of taking the broad issue of principle espoused by Mr. THURMOND, our liberal friends took the narrow view. It is only recently that liberals such as John Roche have had the courage to agree with our colleague. The point is that, no matter what political party is in power, the other party will complain of bias.

Mr. President, the Senator from North Carolina wants to defer further to the senior Senator from South Carolina, because he went even further in 1967, and clearly identified the ideological problem that is plaguing us today. He spoke as follows:

Now I know that this bill has carefully excluded partisan politics from the programs of the Corporation for Public Broadcasting. Obviously, this is a wise move. American politics is not, however, composed only of partisan politics. We have ideological divisions as well. Nothing in this bill safeguards against the capture of the corporation by a small clique with definite ideological biases.

Moreover, the supposed independence of the corporation is called into question by the language of subsection (A), which . . . authorizes the corporation "to obtain grants from and to make contracts with individuals and with private, State, and Federal agencies, organizations, and institutions." This clause could be used to develop and disseminate propaganda promoting the policies and programs of the Department of Health, Education and Welfare, Housing and Urban Development; Justice; Agriculture; Commerce; and so on. We would have propaganda designed to influence pending legislation, whether authorization or appropriation. I say to every one of my colleagues who values his independent judgment in assessing legislative proposals backed by government agencies that those who vote for this bill are voting for something that has a vast potential to be used against them.

Mr. President, the words uttered by the senior Senator from South Carolina could not have been more clearsighted. The contract with PBS was negotiated under the subsection alluded to. The current dispute between CPB and PBS is precisely over who will control the so-called fourth network or interconnection. The Ford Foundation is using its enormous financial power under the same clause to pressurize for its concept of a strongly centralized network. And as for promoting Government programs, I cite, as the fairest example I can think of—because it is a program which I unreservedly admire and strongly support—last year's controversy over whether PBS would provide coverage for the Apollo 17 launch. Some people who are critical of the space program thought that such coverage might increase public support of the program. I think that the program deserves increased public support, but I certainly do not think that Federal funds, directly or indirectly, should be used to expose the public to coverage of Federal programs.

The problem, then, is to make sure that CPB, given the present situation, has the stability for long-range planning.

Now, Mr. President, I send to the desk an amendment in the nature of a substitute which would limit the authorization for the Corporation for Public Broadcasting for fiscal year 1974 to $40 million for 1 year.

The PRESIDING OFFICER (Mr. SCOTT of Virginia). The clerk will state the amendment.

The assistant legislative clerk read as follows:

Strike out everything after the enacting clause and insert in lieu thereof, the following:

That (a) Sec. 396 (k) (1) of the Communications Act of 1934 is amended to read as follows:

"(k) (1) There is authorized to be appropriated for expenses of the Corporation for the Fiscal Year ending June 30, 1974, the sum of "$40,000,000."

(b) Sec. 396 (k) (2) of such act is amended by striking out "1973" and inserting in lieu thereof "1974".

Amend the title so as to read: "A bill to amend the Communications Act of 1934, to authorize appropriations for the Fiscal Year 1974 for the Corporation for Public Broadcasting.".

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Tennessee will state it.

Mr. BAKER. Do I correctly understand that now that the amendment in the nature of a substitute from the Senator from North Carolina (Mr. HELMS) has been reported, the remainder of his time will be charged against that amendment, pursuant to the previous unanimous-consent agreement?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I thank the Presiding Officer.

The PRESIDING OFFICER. There is 30 minutes on the amendment.

Mr. BAKER. Mr. President, may I inquire how much time I have remaining on the bill.

The PRESIDING OFFICER. The Senator from Tennessee has 14 minutes remaining.

Mr. BAKER. I thank the Presiding Officer.

Mr. HELMS. Mr. President, at the appropriate time, either this afternoon or preferably tomorrow, depending on the wishes of the leadership, I shall serve notice that I would like the yeas and nays on my amendment.

Mr. President, the Public Broadcasting Act of 1967 envisaged a system of strong, local noncommercial radio and television stations, reflecting the diversity of interests and needs of their respective communities. This system was to be funded in part by Federal tax dollars, subject to annual congressional appropriation until such time that the new, untried system was firmly established.

Last year, the Congress passed a 2-year, $155 million authorization for the Corporation for Public Broadcasting. This was, by no means, a clear indication of congressional approval for long-term financing. The record reflects serious congressional reservations as to the degree to which the corporation and the stations had ironed out their problems. The President in recognizing these difficulties, particularly as evidenced in the 1972 congressional debate, vetoed the measure and asked the Congress to approve his budget request of $45 million, a 30-percent increase over the preceding fiscal year.

For fiscal year 1974, the Senate Commerce Committee has approved S. 1090, a 2-year, $140 million authorization. This répresents a vast increase over the administration budget request of $45 million, a 30-percent increase over the actual funding level for fiscal year 1973. Again, serious questions must be asked as regards to the structural problems of public broadcasting.

We must ask whether serious problems still exist.

Although the corporation has endorsed S. 1090, this does not point toward the resolution of many of the structural problems that have beset the system since 1967. For example, the centralization, "fourth network" issue, which has been a particularly significant point of concern, has not been rectified. The corporation and the newly recreated Public Broadcasting Service have not resolved their serious disagreements, not the least of which is the question of control of the interconnection, each claiming responsibility for its operation. Nevertheless, as evidence of the corporation's sole responsibility for the interconnection, the Senate report on S. 1160, the Public Broadcasting Act of 1967, specifically stated on page 15:

(T)he committee was persuaded that Corporation needed this flexibility and discretion not to establish a fixed-schedule network operation but to take advantage of special or unusual opportunities that warrant the Corporation directly contracting for interconnection facilities. Even under these circumstances, however, it should be made clear that the decision to broadcast such a program remains with the local station. . . . It might wish to aid in the formation of a new organization or advisory group, including representatives of the local stations and the program suppliers, to handle day-to-day decisions on interconnection. *Whatever special administrative arrangements it makes in exercising its option, the Corporation must retain ultimate responsibility.*

That the corporation and PBS have failed to come to grips with this matter simply points up the inadvisability of long-term financing, even 2-year funding. Furthermore, the corporation presently is without its chairman who, on April 13, abruptly resigned. This leaves but no other effect than organizational disarray.

As to the methods by which the corporation makes program decisions, there is considerable cause for concern. During his appearance as CPB chairman before the Communications Subcommittee on March 28, Mr. Curtis, in response to questions regarding program selection methods, stated:

I don't know as Chairman how to go about it. . . . I don't know how shows get on. . . . Here we are being broadcast right now, and I don't know how that happened.

When, at the highest levels of CPB, there is no knowledge as to how program decisions are made, it must be concluded that serious structural problems within public broadcasting remain today. That Federal tax dollars to the amount of $140 million for 2 years seriously can be considered at this point in time is a disservice to the corporaton because it reduces the incentives to resolve their problems by removing the annual committee review process and providing vastly increased funding levels.

Funding for the Corporation for Public Broadcasting has increased sevenfold since its inception. In fiscal year 1969, the first Federal appropriation was $5 million. Today, the funding level stands

at $35 million. My amendment proposed a healthy $5 million increase for fiscal year 1974, raising the Federal amount to $40 million. These increases represent continued support for public broadcasting and recognizes the excellence that public broadcasting has achieved in many of its endeavors. At the same time, my amendment recognizes many of the difficulties described above and proposes that the Communications Subcommittee annual review process be maintained until the system resolves its internal organizational problems.

The PRESIDING OFFICER. Who yields time?

Mr. BAKER addressed the Chair.

Mr. PASTORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PASTORE. Is an amendment pending at this time?

The PRESIDING OFFICER. An amendment by the Senator from North Carolina is pending.

Mr. PASTORE. How much time has the Senator from North Carolina remaining, and how much time do I have?

The PRESIDING OFFICER. The Senator from North Carolina has 5 minutes remaining. The Senator from Rhode Island has 15 minutes. There is a total of 30 minutes on the amendment.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. I understood the Senator from North Carolina to say that he intended to ask for the yeas and nays on this amendment. Have the yeas and nays been ordered?

The PRESIDING OFFICER. No request has been made for the yeas and nays.

Mr. HELMS. Mr. President, I ask unanimous consent that at the proper time the yeas and nays may be ordered.

The PRESIDING OFFICER. Is the Senator at this time asking for the yeas and nays?

Mr. HELMS. Yes.

The yeas and nays were ordered.

Mr. PASTORE. Mr. President, in response to the distinguished Senator from North Carolina, I point out that there has been an absolute misconception about public television and what it is supposed to do and what it is not supposed to do.

No one in this Chamber believes more in localization than I do. But the irony of it all is that down in the White House they talk about localization, and then they have the palace guards trying to run the country.

Mr. President, if this administration does not care for public television, they ought to stand up and say so and have the act repealed. But the fact still remains that if we are going to have public television—and we have approximately 234 stations today; we started out with only about 81 in 1962—it should be made to work.

In 1971, we put up approximately $25 million. The actual amount that was raised and spent by the industry—I am talking about educational television and public television—was more than $180 million, which means that the Federal Government only comes up with about 20 percent of the money.

Mr. President, with respect to the idea of 1 year or 2 years, let me read what Mr. Loomis said. He was selected by the corporation to run public television. This is what he said. This comes out of the mouth of a Republican, not a Democrat. With all this talk about who is running what, this is what he said:

> The production of programs for presentation by local public broadcasting stations is, and should be a careful, time consuming process. It takes time to consult with 147 television licensees and 138 qualified radio stations on their program needs, to analyze and react to their recommendations and their proposals, to decide upon production centers, to negotiate for rights, to produce a pilot, to produce the final series, schedule and present them for use by the stations.

Here is the clincher:

> Compressing their entire cycle into a single year means compromising on the quality of the final product. Series like BBC's "Henry VIII" and "Civilisation" cannot be planned and produced in one year. It took almost three years of research, plannings, and development before the first "Sesame Street" series could be aired.

That is what Mr. Loomis said.

I am being guided by what they said. I had the officers and directors of the corporation before our committee, and I took them one by one. I asked them, "Are you for the 1 year or for the 2 years?" To the man and to the woman—there is one woman on the corporation—they all answered in the affirmative: "You need 2 years."

Now we come on the floor and we hear this gobbledygook about conservatism and liberalism. Perhaps some programs are liberal; perhaps some are conservative. Perhaps I do not like some liberal programs or some conservative programs. But the one thing that Dr. Killian told us when we formed this corporation was that he wanted the nose of Congress and the White House out of programing, and that is what we are trying to do. He left it up to the distinguished persons who have been appointed by President Nixon to decide for themselves what it ought to be, and I do not think they ought to be dictated to by us in the Senate, by the Members of the House, or by any individual in the White House.

That is what this all amounts to. If you want it, you can have it. If you do not want it, stand up and say so, and let us repeal the law. But do not emasculate it this way, because I say that unless we are going to have good public television, we should do without it entirely.

What I am doing here, as a Democrat, on this side of the aisle? I am just echoing what the Republican members of that corporation have said. Who is fighting me? The Republicans, on the other side; not all of them, because I tip my hat to a man like Senator COOK and a man like Senator BAKER, who can understand it.

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

Mr. PASTORE. I yield whatever time the Senator needs.

Mr. COOK. Mr. President, I want to echo most of the thoughts that the chairman has stated, because during the course of the hearings it became very obvious that we were subject to a great deal of rhetoric.

As the chairman well knows, and as I put in my separate views which are filed in the report, we find that those from the Office of Telecommunications testified before the committee that they really did not want what is commonly referred to as a fourth network, which is the interconnect and yet they were not willing to have a 2-year appropriation so that localism could be established. As the chairman pointed out "Sesame Street" took 36 months to establish all the groundwork and research for the development of that program.

It is estimated that of all the major series on television today the shortest period of time it takes to do the groundwork, to develop research and study, is a minimum of 18 months. What we are really seeing is an approach by those who wish to limit the appropriation to 1 year, saying we should have more localism and more creativity at the local station level, and that the interconnect should not become a fourth network, and it should not. Yet can we appropriate on a 1-year level? We could do no more than to make it an interconnect.

When the Senator from Rhode Island said that Mr. Loomis had said they did not want the nose of Congress in this, that is what Congress said when they established this in the first place. It was not that the president of the corporation said this. He was doing no more than echoing the debate when this was established in the first place. What do we see? We see something that Congress established, something that Congress created, and suddenly we see Congress trying to destroy the very thing that it established.

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

Mr. COOK. I yield.

Mr. PASTORE. I did not say that Mr. Loomis said that. I said Loomis said he needed 2 years. But the man who said he did not want the nose of Congress in this was Mr. Killian of the Carnegie Commission who made the recommendation in his report. He recommended it to Congress and then Congress echoed what Killian said.

Mr. COOK. I would say what we have here, Mr. President, is the accusation that the interconnect is, in essence, a network and because we cannot appropriate more than one year, it is essential it be that. There are many small public broadcasting stations throughout the country with one camera, no video tape equipment, and yet they cannot pick up anything, which they must do this to stay on the air. If they did not have the interconnect, some of them estimate, their network would be closed as much as 50 percent of the time.

Mr. President, if you are going to ask these stations to make this kind of in-

vestment, if you are going to ask them to establish localism, the only thing I can say is we have to either have an appropriation for more than 1 year or it will never happen.

We find by reason of this process the situation of a destroyer going through a mine field. On the one hand we hear Clay Whitehead say we need more localism; we cannot have another network; and yet we see them saying we should appropriate for only 1 year. If we appropriate for only 1 year the interconnect will be a network of necessity.

I hope this amendment does not succeed because if it does we should have hearings, not on whether we are going to appropriate for 1 year or 2 years, but whether we are going to repeal the act in its entirety.

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

Mr. COOK. I yield.

Mr. HELMS. The Senator from Kentucky and the Senator from Rhode Island know of my respect for them. I want to make clear two points. It is perfectly natural these people would want their appropriations for 2 years. It is less bother; they would not have to come up and be that accountable. The point that motivates me is that everything is in an uproar in this area. They cannot plan wisely for 2 years.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COOK. Can the Senator from Rhode Island yield?

Mr. PASTORE. Mr. President, how much time do I have? I am perfectly willing to yield.

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. COOK. Mr. President, is there any limitation?

The PRESIDING OFFICER. The limitation is 30 minutes.

Mr. PASTORE. If I have 7 minutes, I assign 5 minutes to the Senator from Kentucky.

Mr. COOK. I thank the Senator.

Mr. HELMS. I would be highly gratified if this appropriation process were settled before this question comes up again. I am not going to disagree with the philosophy of an appropriation for 2 years. I believe I am the only television executive in this body. I know the value of planning ahead, but I do not think that under existing circumstances we ought to give existing authority, the existing people, a 2 year appropriation. I simply say we should give a 1 year appropriation and then take a look at the situation the next time around.

Mr. COOK. I thank the Senator. I really want to get a point over, and I say this to the Senator from North Carolina——

Mr. PASTORE. Mr. President, we are not talking about an appropriation. The appropriation is still on a yearly basis. We are talking about an authorization.

Mr. COOK. Mr. President, that is correct. If I were convinced that we could get a 2-year appropriation, I would be delighted, somehow or other, to convince myself that the Senator from North Carolina let us. But let us look at what happened. We had the Chairman of the Public Broadcasting Corporation, who honestly tried to solve the problems, including public broadcasting, and the Community Broadcasting Board. But what happened? He worked himself to death to solve that problem. He found the Office of Telecommunications Policy in the White House actually calling everybody on the board that they ought to vote against the Chairman. As a result, the Chairman, appointed by the President of the United States, resigned his position. They went behind their own Chairman's back and defeated the agreement. We have no assurance that this will not be done again—none whatsoever. The only thing we are going to see is 40 million people in the United States who watch public broadcasting who will be spending another year watching reruns. We are certainly not going to establish creativity with that argument. In the first place, we want to establish it with the help of Congress, as the Chairman has so aptly put it.

However, 20 cents out of the public broadcasting dollar comes from the Federal Government with the rest coming from private sources. So I might say that if we find organizations throughout the United States which are actually sustaining 80 percent of the programing being totally and completely stymied, we reject the public broadcasting system, because of the 20 percent.

So that is where we are. If we are really going to consider seriously another 1-year appropriation, then let us pull this bill off the calendar. Let us go back to committee and determine whether public broadcasting in the United States is needed, because I believe we are at that juncture.

I close by saying that in this Senator's mind—there are Senators who may totally disagree with my reasoning—the interconnect will be unworkable if we continue the authorization on a 1-year basis.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PASTORE. I yield 1 minute to the Senator from Kentucky.

Mr. COOK. The reason given was that stations throughout the United States, when they were properly equipped, could get service through the major national television laboratory, to be used for the purpose of submitting to viewers. If we want to get it back that way, we have to have more than a 1-year authorization; otherwise, the entire situation will be out sick. Therefore, I strongly oppose the amendment of the Senator from North Carolina. I must say that the hearings made it perfectly clear. We went right down the line to everybody, including everybody appointed by the President of the United States. They all made it perfectly clear that we must have a 2-year authorization.

I thank the Senator.

The PRESIDING OFFICER. All of the time of the Senator from Rhode Island has expired. The proponents have 5 minutes remaining.

Mr. BAKER. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. On whose time?

Mr. BAKER. There is not any time left except mine. It is on the bill. There is no amendment pending.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Do I have 5 minutes remaining on the bill?

The PRESIDING OFFICER. The Senator has time remaining on the bill. The Senator has 14 minutes remaining on the bill.

Mr. BAKER. I yield myself 1 minute on the bill.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, the amendment offered by the distinguished Senator from North Carolina is one that I will not support. However, I would point out that I supported a similar measure last year after a bill was reported from our committee against which I fought very hard, and which was vetoed, and which I recommended to the President be vetoed. We ended up with a 1-year authorization. I voted for it at that time. Therefore, I cannot be critical of the Senator from North Carolina, and I am not.

I would point out, however, at this juncture I think we need a 2-year authorization at these funding levels, and I intend to support that authorization.

I make this final recommendation, and I hope I have the attention of the subcommittee chairman and the chairman of the full Commerce Committee: While I vote for the 2-year authorization this year at these funding levels, I think the problem is not over and we still have some deep philosophic soul-searching to do about the future of public broadcasting. I wanted to make that addendum as to my personal purposes, so that my vote against the Helms' amendment is not misunderstood.

I reserve the remainder of my time.

Mr. PASTORE. Mr. President, I ask for a short quorum, not to be taken out of the time of either side, because the Senator from North Carolina (Mr. HELMS) is not on the floor. I think it is his turn now.

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

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

The Senator from North Carolina has 5 minutes remaining on his amendment.

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

The PRESIDING OFFICER. The Senator from North Carolina having yielded back his time, all time on the amendment has been yielded back. The question is on agreeing to the amendment of the

Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), the Senator from Georgia (Mr. NUNN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. SPARKMAN), the Senator from North Dakota (Mr. BURDICK), and the Senator from Nevada (Mr. CANNON) are necessarily absent.

I further announce that the Senator from New Jersey (Mr. WILLIAMS) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Utah (Mr. Moss), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senators from New York (Mr. BUCKLEY and Mr. JAVITS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mr. GURNEY), the Senator from Nebraska (Mr. HRUSKA), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senators from Ohio (Mr. SAXBE and Mr. TAFT), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

If present and voting, the Senator from Illinois (Mr. PERCY) would vote "nay."

The result was announced—yeas 12, nays 62, as follows:

[No. 118 Leg.]

YEAS—12

Allen	Curtis	Scott, Va.
Bartlett	Fannin	Thurmond
Bellmon	Hansen	Young
Byrd, Harry F., Jr.	Helms	
	McClure	

NAYS—62

Abourezk	Griffin	McIntyre
Aiken	Hart	Metcalf
Baker	Hartke	Montoya
Beall	Haskell	Muskie
Bible	Hatfield	Nelson
Biden	Hathaway	Packwood
Brooke	Hollings	Pastore
Byrd, Robert C.	Huddleston	Pearson
Case	Hughes	Pell
Chiles	Humphrey	Proxmire
Church	Inouye	Randolph
Clark	Jackson	Schweiker
Cook	Johnston	Scott, Pa.
Cotton	Kennedy	Stafford
Cranston	Long	Stevenson
Dole	Magnuson	Symington
Dominick	Mansfield	Talmadge
Eagleton	Mathias	Tower
Ervin	McClellan	Tunney
Fong	McGee	Weicker
Gravel	McGovern	

NOT VOTING—26

Bayh	Cannon	Hruska
Bennett	Domenici	Javits
Bentsen	Eastland	Mondale
Brock	Fulbright	Moss
Buckley	Goldwater	Nunn
Burdick	Gurney	Percy
Ribicoff	Sparkman	Taft
Roth	Stennis	Williams
Saxbe	Stevens	

So Mr. HELMS' amendment was rejected.

Mr. HART. Mr. President, while public and press attention have been absorbed by the Watergate transgressions, the administration is quietly doing violence to another of our basic institutions, namely, the first amendment. I refer to White House interference with public broadcasting and specifically to emasculation of public affairs broadcasts on public broadcasting.

We were all put on notice—if we had not already read between the lines—by a television program on March 22, 1973. On the Dick Cavett show of that date, one of the panelists was Patrick Buchanan, Special Consultant to the President. The conversation went this way, I quote:

CAVETT: You were going to explain what happened to public television.

BUCHANAN: Right. Now, last year the Administration proposed an increase of $10 million in the budget for Public Educational Television from $35 million to $45 million. It got down on Capitol Hill and the fellows in Public Television went to work and they elevated that up to $165,000—$165 million, I'm sorry, for two years. Now, when that came down to the White House, we took a look at that, and we also looked at the situation over there, I did personally, I had a hand in drafting the veto message; and if you'll look at Public Television you find you've got Sander Vanocur and Robin MacNeil, the first of whom, Sander Vanocur, is a notorious Kennedy sycophant, in my judgment, and Robin MacNeil, who is anti-Administration, you have the Elizabeth Drew Show on, which is anti—she, personally, is definitely not pro-Administration, I would say anti-Administration, "Washington Week in Review" is unbalanced against us you have "Black Journal" which is unbalanced against us . . . (laughter) . . . you have Bill Moyers, which is unbalanced against the Administration. And then for a fig leaf they throw in William F. Buckley's Program. So they sent down there a $165 million package, voted 82 to 1 out of the Senate, thinking that Richard Nixon would therefore—he would have to sign it, he couldn't possibly have the courage to veto something like that. And Mr. Nixon, I'm delighted to say, hit that ball about four hundred and fifty feet down the rightfield foul line right into the stands; and now you've got a different situation in Public Television. You've got a new board on CPB, you've got a new awareness that people are concerned about balance. And all this Administration has ever asked for on that, or on network television, frankly, is a fair shake.

Thereafter, the Corporation for Public Broadcasting, which is supposed to be independent from White House or congressional influence, terminated precisely those programs named by Mr. Buchanan.

During the excellent hearings conducted by the Communications Subcommittee Chairman, Senator PASTORE, this matter was explored with the new Chairman of the Corporation for Public Broadcasting, former Congressman Thomas B. Curtis. While Mr. Curtis could not explain how the decision was made to drop the programs named by Mr. Buchanan as "anti-administration," he assured the committee that in the future he would resist outside influence and maintain the independence of the Corporation for Public Broadcasting intended by Congress when it passed the Public Broadcasting Act.

So what happened? While the Commerce Committee was in the very act of voting to report the legislation before us, extending the public broadcasting authorization, the White House again launched an assault on the independence of the CPB. It persuaded a majority of the members to reject an agreement laboriously worked out over a period of 3 months by representatives of the stations and the CPB, setting up procedures for handling any future differences. Whereupon, Mr. Curtis—unable longer to defend the independence of the CPB—resigned.

Mr. President, I believe my colleagues here in the Senate and the Members of the House who are yet to consider this legislation should have "on the record" the comments of Mr. Curtis in resigning. This is not the outburst of an "elitist plugola" to quote Dr. Clay Whitehead. It is the concern of a nationally respected Republican from Missouri who served 18 years in the House.

Mr. President, the Nation needs public broadcasting, and I fully support the bill before us today. But the Nation needs a public broadcasting service which is not limited to children's programs, ballet and French cooking lessons. We need a public broadcasting system which offers public affairs programs that will help the American people anlayze and understand the public issues, the political issues. And this cannot be the case if every program considered "antiadministration" in Mr. Buchanan's eyes is forced off the air.

This is a very serious matter, Mr. President, and I am confident it will be thoroughly explored when hearings on this legislation are held in the House.

I ask unanimous consent to insert in the RECORD at this point the public statement of the President of Station WGBH, Boston, expressing concern that the Executive may be trying to take over control of public television to its own ends; the New York Times editorial of April 19, 1973, "Stifling Public TV"; the New York Times article of April 24, 1973 "Tampering Cited in Public-TV role", and an article from Congressional Quarterly of April 21, 1973, "A 'Very, Very Upset' Tom Curtis resigns from CPB."

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

APRIL 26, 1973.

PUBLIC STATEMENT BY DAVID O. IVES, PRESIDENT, WGBH BOSTON

We at WGBH have grown increasingly worried about signs that the Executive Branch of the Federal Government may be trying to take over control of Public Television for its own ends.

The first sign was the attack on the developing shape of our system, delivered in Miami a year and a half ago by Clay Whitehead of the White House Office of Telecommunications Policy. That was followed last summer by President Nixon's veto of the bill that would have substantially increased federal funds for public broadcasting. That

forced the resignation of John Macy, first President of the Corporation for Public Broadcasting. His place was taken by Henry Loomis, and new persons were appointed to the Board of the Corporation, including Thomas B. Curtis, who became chairman, all of whom were said to be "Nixon men." Rumors and reports proliferated that the White House didn't like certain public affairs programs then being shown on Public Television, and they were followed by the failure of the Corporation Board to renew funding of several such programs for next season. In January the Board resolved to take back from the Public Broadcasting Service full control of funding, review, and network scheduling of national programs. Then on April 13, the Board failed to accept (instead, they deferred action) the compromise on program control which Corporation and PBS representatives had previously hammered out together.

Now the latest, and most worrisome, sign of all was the interview given to The New York Times on April 23 by Mr. Curtis, who said he resigned as Chairman because he felt he could no longer defend the integrity of the Corporation Board. That integrity had been tampered with, he charged, because someone in the Administration, on the very eve of the April 13 meeting, had telephoned several members of the Board in order to influence their votes on the proposed compromise. Mr. Curtis charged that this was improper interference, and that it was "contrary to what I had understood the White House had agreed to do—namely, keep hands off."

On April 23, the Times printed a denial of the Curtis charges by three other members of the Corporation Board and by a spokesman for Clay Whitehead, from whose office the calls were presumed to have come. Mr. Curtis' allegations were called "a phoney issue," "outrageous," and "totally ridiculous."

Ever since the Curtis interview appeared, we have been trying to find out just what communication took place between persons in the Administration and persons in the Corporation for Public Broadcasting. If such communication constituted an improper attempt to exert political influence on Public Television, that would have the gravest implications for WGBH and for all the stations in the system.

We have learned that, unquestionably, many contacts have been made in recent weeks and months between White House officials and the Corporation—sometimes with Board members, sometimes with staff members.

But that still leaves the question: Were those contacts improper? Did they exceed the bounds of what one can reasonably sanction as necessary in the Corporation's relations with one of the two branches of the Federal Government on which it depends for its funds? Can those contacts be fairly construed as breaches in the integrity of the Corporation and thus of WGBH and any other recipient of Corporation grants?

The explanation given for those contacts by everyone who has spoken out except Mr. Curtis, is that they were nothing more or less than the kind of exchanges in which any entity that is funded by the annual appropriations process must engage. That, of course, begs the basic issue, which was raised over five years ago when Congress and the President first created the Corporation for Public Broadcasting. It was argued then, and it has been argued ever since, but never remedied in the law, that as long as Public Television has to rely on annual appropriations for its funds, it will remain dangerously susceptible to political interference in its programming and other activities.

Congress tried, in 1967, to insulate the Corporation to some extent by designating it as private and nongovernmental. But as long as it is deprived of secure, long-term financing, the Corporation, like it or not, must act in some respects like a government agency. It must deal with the White House in the attempt to put the level of funds it needs into the President's annual budget. It must get Congress to authorize and then to appropriate those funds. And it must get the President's signature on that funding legislation. At the same time, the Corporation must satisfy all the local Public Television stations, in whose interest it was created, that the funds will be used in ways they approve.

As a consequence, the Corporation sees itself in a three-cornered negotiation—with the White House, the Congress, and the stations. Unless all parties can be accommodated, as the Corporation views it, there might well be no federal funding at all for Public Television. In this light, what one person may regard as "improper communication," another will think of as part of the bargaining process on the way to a successful appropriation. The important consideration, in this view, is not the *fact* of the bargaining, but what indeed is gained or lost in the process. Underlying that view is the sense there should be some things that will never be bargained away, or even permitted to be raised in the bargaining process, no matter what the eventual cost of a Presidential veto or a defeat in Congress.

The dangers of such a funding route for Public Television are now apparent to everyone. If the Corporation "bargains" with the Administration about its relationship with the stations or with their organization, the Public Broadcasting Service (PBS), what then prevents the Corporation from "bargaining" with the Administration about which programs to fund and which not to fund, about which programs to send out on the interconnection system and which to withhold? And if the White House influence is exerted at appropriations time, how are the stations, and how is the public, to know that it is not also being exerted at other times?

The threatening signs have become so persistent, we believe the Board of the Corporation of Public Broadcasting must respond in an open and forceful way. We call on the Board to declare publicly just what their rules are for dealing with the Executive branch. How far will they go in private discussions of the Corporation's business with the White House—or with Congress, for that matter? What will they talk about, and what will they *refuse* to talk about? Where will they draw the line, saying beyond this limit they will not permit a political interest?

We want, in particular, the absolute assurance that the Corporation will never permit their discussions with the White House or the Congress to include any bargaining for or against particular programs, be they in the area of public affairs or in any other area. We accept that the Corporation must engage in talks on its general funding requirements, but we most emphatically reject the possibility that it must bargain away certain programs in order to get its appropriation.

At all times, there is a vital decision of principle facing every Public Television station. Speaking now only for WGBH, we say frankly that we were so distressed by Mr. Curtis' charges that over several days we have earnestly considered refusing any further grant to WGBH from the Corporation until the Corporation could establish its integrity and independence of action in a way we all could accept.

We are not taking that step at this moment. Our inquiries have satisfied us that despite all the signs to the contrary, there is still a commitment to independence represented in the active membership of the Corporation Board—a commitment still strong enough to deserve a further chance at resolving the issues of control over Public Television.

We recognize, furthermore, that we at WGBH have never to-date received, much less had to respond to, a single suggestion that any one of the programs we produce—not even the most controversial—be produced in any way other than we intended. We would have spotted such a suggestion instantly, since we are second to no one, we believe, in our sensitivity to any outside influence on our program judgments.

But we do urge the Board of the Corporation to clear the air. We urge them to recognize that an atmosphere of deep suspicion and mistrust of government pervades the country today. We urge them to help dispel that atmosphere, at least as it affects Public Television, so we can get on with our work. Again, the first step to achieving that, we propose, is that the Board speak out precisely on the issue of what it will, and what it will not, permit even to be talked about in its private contacts with the Executive and Legislative branches of the Federal Government.

Finally, we at WGBH declare we shall be continuously alert to the possibility that improper influence may be brought to bear on the Corporation and therefore, inevitably, on WGBH. Should we become convinced it has occurred, we will not hesitate to refuse Corporation grants to WGBH, even if that means dismantling a large part of our activities. Should that day ever come, we put the Corporation Board on notice that we will make our decision public in the strongest terms.

[From the New York Times, Apr. 19, 1973]

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The proposal that emerged would have given the network and the corporation an equal voice in determining whether or not a controversial program would be transmitted on the P.B.S. interconnection. Under the plan the board chairmen of the licensed local public television stations would have the right of decisions on whether to avail themselves of any network presentations. However, there was to be no prior restraint on the production of any program by the public network.

Even that minimal protection of the system's basic freedom appears to have been too much for the Administration's arbiters of public enlightenment. Although Mr. Curtis had every reason by last week to believe that the compromise would be approved by the C.P.B. board, the Administration's hardliners, again led by Mr. Whitehead, engaged in frantic last-minute lobbying to block it. The meeting that was to ratify the Curtis compromise turned into a rout of the moderates and a repudiation of Mr. Curtis.

The Administration's record on public broadcasting is a chronicle of double-talk. When Mr. Nixon vetoed the public broadcasting appropriations bill last year, he charac-

terized P.B.S. as excessively centralized. But with its latest coup, the Administration has, in effect, let it be known that its goal is not a decentralized Public Broadcasting System, but one that is submissive to the will—and thus be disguised central control—of the Office of Telecommunications.

"TAMPERING" CITED IN PUBLIC-TV ROLE

(By McCandlish Phillips)

CHICAGO, April 23.—Thomas B. Curtis, chairman of the Corporation for Public Broadcasting until he resigned abruptly a week ago, said today that the White House had "tampered with" the independent board, in express contradiction to assurances that he had received.

In a two-hour interview with The New York Times in his office here, Mr. Curtis made his first comments since his resignation, explaining that in his view the integrity of the board had been threatened by White House interference.

Mr. Curtis said it was now imperative that the board "reassert its independence and integrity" by devising procedures that would effectively insulate it from political pressures.

"I had the clear understanding that the President wanted us to so set up the Corporation for Public Broadcasting that public broadcasting could not be made a propaganda arm for the Nixon Administration or for any succeeding administration," the Republican appointee said.

Mr. Curtis said he had responded to that assurance by seeking to establish procedures by which "the whole Congress and the public" would have full confidence in the independence of the board.

"You can see what happens when officials in the White House constantly talk to members of the board, calling them privately and interfering with the process" of deliberation, he said.

Mr. Curtis continued:

"When it became clear that the White House was not respecting the integrity of the board, then I couldn't defend the integrity of the board the way I had.

"This board has been under very severe attack in the news media for the past 5 months, with people saying that it was involved in a 'Nixon takeover,' and I have defended it vigorously—and I underscore vigorously.

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"I asked Mr. Whitehead, when he testified (before the Pastore Committee) to state that the White House respected the integrity of the board and felt that it was essential to maintain it, and I thought he would, but he didn't," he said.

Mr. Curtis ventured that President Nixon's "ideas about this have been shot down by people in the White House who don't understand the basic importance of why this board has to act independently."

His resignation on April 14 came in the wake of a decision by the board, by a 10-4 vote, to defer action on a carefully worked-out compromise plan determining the operating structure of public broadcasting.

The plan was designed to adjust relations between the Corporation for Public Broadcasting, created by Congress to oversee public television, and the country's 233 public television stations. It would have assured that the stations would retain a large measure of control in public television's national programing.

"I was surprised," Mr. Curtis said, "I thought the board would agree to the plan, and I still think the members were ready to when the White House interposed. I felt that the board had been tampered with, and I told the board that. I sent the President a copy of my letter."

"KEEP HANDS OFF"

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"It wasn't the deferral that disturbed me, it was the fact of interference," Mr. Curtis explained. "That was contrary to what I had understood the White House had agreed to do—namely, keep hands off."

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"I think the calls were primarily to shoot down the compromise," he asserted. "When a decision is about to be made, that's when they shouldn't be messing around.

"You don't interfere even by making phone calls. This kind of communication is improper."

His manner throughout the interview was good-humored, relaxed, plainspoken. "I'm not angry at anybody," the former Missouri Representative said. "I was there trying to do a job, and if I cannot defend the board as I did, I'm not useful any more.

"My aim was the integrity of the board. That was the sine qua non."

Mr. Curtis said that Congress had acted to create what it regarded as "an independent, nongovernmental corporation." The keys to it, he said, are a six-year term for board members, "thereby exceeding the term of office of the President," and staggered terms, so that no President could appoint a majority to the board in a single term of office.

He likened the position of the C.P.B. in the Government to such regulatory agencies as the Federal Trade Commission and the Federal Communications Commission. "They are arms of the Congress, not of the Executive," he said.

Congress ruled that "no more than 8 of the 15 board members of the corporation be of the same political party, and it required that the board itself elect its own chairman," Mr. Curtis pointed out. That, he said, showed Congress's intent.

Mr. Curtis said that "most of these agencies have developed procedures which insulate them against political pressures of the Executive, and this board should be doing the same thing."

"Unless this board reasserts its independence and integrity," he continued, "and all groups respect this, I don't think the Congress will go along with having the Government in public broadcasting, because then you don't have it insulated against normal political pressures.

"All that's happened here is that the Executive has tried to get its opinion into the board—it isn't necessarily a takeover—but there's a proper way to go about it: Write a letter and make the letter public, not going behind closed doors and saying God only knows what talking to one commissioner at one time, to one at another time."

Mr. Curtis said the C.P.B. must "adopt firm rules" and deliberate decisions on the basis of "facts and fair arguments." "The way you deliberate is by letting everybody hear the same thing in a common forum," he said.

[From the Congressional Quarterly, Apr. 21 1973]

A "VERY, VERY UPSET" TOM CURTIS RESIGNS FROM CPB

Thomas B. Curtis, the board chairman of the Corporation for Public Broadcasting (CPB), resigned April 13 after a majority of the board refused to accept a compromise plan he had recommended. The proposal would have returned some control of public television programming to the local stations and cleared the way for selection of privately funded 1973–74 public television shows.

Curtis had been appointed to the CPB post by President Nixon in July 1972; his resignation was announced by the White House April 18.

A former member of Congress from Missouri, Curtis had assured a negotiating group representing 147 station managers that the board would accept a compromise giving the stations control of scheduling programs on the Public Broadcasting Service (PBS) and the authority to telecast programs that were privately financed.

Curtis was reported to have been "very, very upset" after the board decided to "defer action" on the agreement reached by PBS and a corporation committee. But, prior to the board's vote, Curtis had been warned, according to one board member, "not to make any commitments to PBS . . . because the majority of the 15-member board was not in agreement with his views," the Wall Street Journal reported April 18.

POWER CLASH

Congress created the corporation in 1967 to funnel federal funds to non-commercial radio and television stations throughout the country. PBS was incorporated by CPB in 1969 and until 1973, selected, scheduled and promoted public TV shows. (1967 Almanac p. 1042).

The clash between the two organizations stemmed from a Jan. 10 announcement by the corporation that it would absorb most of the functions of PBS, leaving the service to provide technical services necessary for operating the public television interconnection (network).

The station licensees, however, decided to fight that decision. Under the leadership of Ralph Rogers, a Dallas industrialist and broadcasting executive, PBS was reorganized and began discussions with Curtis and a three-member CBP panel.

The board's April 13 decision reportedly followed a telephone campaign by White House staff members, including Clay T. Whitehead, director of the administration's Office of Telecommunications Policy, who opposed returning programming power to PBS because of administration dissatisfaction with some public affairs programs PBS had scheduled.

WHITEHEAD

The debate over public broadcasting actually began in October 1971 when Whitehead charged that the public TV industry had wandered from the role Congress had originally intended it, evolving instead into a "fourth national network."

Testifying before the Senate Communications Subcommittee March 29 on a long-range financing bill for public television—another issue in the controversy—Whitehead, who once supported such a plan, recommended that Congress fund the corporation on an annual basis until the "basic problems" of non-commercial radio and television were resolved. (Hearings, Weekly Report p. 787).

Whitehead singled out public affairs programming as an example of the "serious deficiencies" in public broadcasting. CPB's reliance on federal funds to support public affairs was "inappropriate and potentially dangerous," he charged, "especially in view of the tendency to centralize production in New York and Washington."

In January, the CPB board voted against funding several public affairs programs, including "Bill Moyers' Journal" and William F. Buckley's "Firing Line."

Although Curtis supported the cuts, he told Congressional Quarterly in a March 1 interview: "There are people in the White House who feel that you can't do public affairs objectively and with balance and therefore (they would) throw the baby out with the bathwater. And there are people in Congress who say that. . . . I happen to think that one can argue strongly for a point of view and do it with objectivity and balance." (Text of interview, Weekly Report p. 591)

Rogers. Taking aim at the reorganized PBS group, Whitehead suggested that the way to strengthen the local stations was to give broadcasters a realistic choice in deciding whether to televise any CPB-supported or distributed programs. But, he said, this could not be accomplished if the stations were represented by some organization that makes program decisions.

Whitehead's proposal, Rogers said during the Senate hearings, "is in complete opposition to what everyone is advocating." Rogers added that he refused to believe the President or Congress would subscribe to such a recommendation. "I guarantee to you that the stations will not."

Earlier, Rogers outlined the compromise agreement that PBS had negotiated with CPB, which the board rejected April 13. Under the terms of the plan:

Local broadcasters would have remained in control of scheduling on PBS.

CPB would have had final say on how federal funds were spent for programming.

The licensees would have had access to the network for programs privately funded.

To meet the 1967 public broadcasting act's requirements that programs of a controversial nature must be balanced and objective, Rogers explained that agreement had been reached between the negotiating panels to create a "monitoring committee," which would determine whether programs that were challenged violated the law on the question of balance and objectively. Both CPB and PBS would have had a three-member monitoring team, and a 4–2 vote would have been necessary to kill a contested program.

Mr. PELL. Mr. President, the bill now before us, S. 1090, represents a positive step toward aiding the fledgling public broadcasting system in our country. I strongly support the bill, for it will provide increased funds to the Corporation for Public Broadcasting to continue providing stimulating and innovative programing on a national level.

I am particularly pleased at the level of support proposed in this bill for the Corporation on Public Broadcasting because of the clear commitment made by the Corporation to broadcasting programs on both the arts and humanities. In that connection, Mr. President, I am especially pleased that both the National Endowment on the Arts and the National Endowment for the Humanities have become partners with public television in funding programs of outstanding quality.

Another facet of the measure before us will be of particular benefit to my own State and that of my senior colleague, the distinguished floor manager of the bill. That is the extension of the authorization for improving broadcasting facilities of individual education stations across the country.

In Rhode Island we have one educational station, WSBE–TV, channel 36. At present this station broadcasts from makeshift facilities located on the campus of Rhode Island College. I am pleased to have learned that the station plans to move to more adequate facilities in the city of Providence and I am also pleased that our general assembly in Rhode Island just last week approved funds for WSBE–TV that will make such a move to new facilities possible.

Mr. President, the station plans to apply during fiscal 1974 for Federal lands under the Educational Television Facilities Act to acquire cameras and allied equipment to use at its new location. The Federal funds could total as much as $300,000 and I believe that this legislation is farsighted in authorizing $25 million a year for aiding such local stations as channel 36.

I would hope, Mr. President, that the Appropriations Committees of both parties and the administration will see fit to fund this program at a suitable level so that such deserving projects as that at WSBE–TV can be supported.

Finally, I wish to commend my senior colleague, the chairman of the Subcommittee of Communications of the Committee on Commerce, for his outstanding leadership in guiding this measure to the floor and generally for his long record of concern for quality broadcasting on all levels in this Nation.

Mr. HUMPHREY. Mr. President, since the first educational television station went on the air in May of 1953, Congress has steadily supported the growth of noncommercial broadcasting. In 1962 the Congress passed the Educational Television Facilities Act to provide grants for the construction and expansion of educational television systems. And, in 1967, Congress passed the Public Broadcasting Act, which created the Corporation for Public Broadcasting and gave it four main responsibilities:

First, to assisting the development of high-quality programs for public television and radio.

Second, to develop interconnections among and between various educational and public television stations.

Third, to assisting the establishment and development of one or more systems of public broadcasting.

Fourth, to assure the maximum freedom of noncommercial educational broadcasting systems and stations from interference with or control over program content.

In designing the Corporation for Public Broadcasting the Congress deliberately attempted to insulate it from Government interference. Neither the White House nor the Congress was to have control over the programing.

In no way was public television supposed to become another arm of a Government propaganda machine or simply another commercial-type system.

The emphasis was to be educational—to develop those programs of high quality that would be interpretive, that would add to the educational enrichment of Americans.

Part of this educational mission, Mr. President, has been the development of public affairs programing. In the legislative history of the Public Broadcasting Act, there are clear references to the need for public affairs programs; not simply news programs, not a duplication of the commercial networks, but a public affairs programing that is interpretive, illustrative, and an addition to depth of public understanding and education about events, people, and circumstances.

It goes without saying that such programs have a need to objective, fair, and balanced in these presentations.

It is my judgment that public affairs programing has been fair, balanced, and objective. I question sometimes whether or not the public affairs programs have served their educational mission; but I do not question the sincere professionalism of probing, asking, and interpreting in the drive for first-rate, balanced journalism.

Lately, however, Mr. President, I have become aware, as I know other Senators have, of what smacks so much of a concerted attempt by those in the executive branch to cut the heart out of public affairs broadcasting. It seems that the Nixon administration, or at least some officials within the administration, believes that public affairs broadcasting is biased against the administration—and for that reason, must be curtailed, eliminated, and dropped from the public airwaves.

Mr. President, I deplore any attempt by the executive branch to interfere, or threaten those who operate under the first amendment freedom of this country.

We must resist all attempts to remake the airwaves into propaganda arms for any branch of government. Our freedoms are too precious, and a free press is too essential to our democratic well being to do anything less.

Mr. President, two programs that seem to be caught in the cross fire between the Corporation for Public Broadcasting, the White House, and the Public Broadcasting System are "Elizabeth Drew's Thirty Minutes With . . . and William Buckley's "Firing Line".

I would hope, Mr. President, that there might be accommodations reached that would permit the continuance of these two programs. And, I want to say that I believe both are educational, both are respected programs.

These are not simply talk shows, designed to elicit interesting comments from guests. These shows are much different. Both Miss Drew and Mr. Buckley probe their guest's thinking, reasoning, and assertions. They want to know the "why" of decisions or the "why" of reasoning.

Both shows are designed to explore public topics in a way few commercial news programs can—with follow up—not just to get a guest's additional com-

ments but to analyze those comments, to have the guest explain those comments, and in so doing to enlighten the public in an educational sense, not merely in an awareness sense.

Yet, I have read that for some reason these two programs along with other public affairs type programs are being canceled—not, as I understand it because of a failing in the concept of the programs—but more because of interference of persons outside the public television system who have decided that these programs do not meet standards of fairness and balance.

Mr. President, I would hope that this interference with public television, as reported in our newspapers, would cease and cease immediately.

And, Mr. President, I would hope that the legislation before the Senate today will pass with a strong vote of confidence for public television. The legislation provides a 2-year authorization for the Corporation for Public Broadcasting. I support this 2-year authorization. Such a time frame would give the Corporation opportunity to fully plan programs, not subject to the fear of running out of money or the hazards of single year authorizations.

Mr. President, I urge the Senate to adopt this legislation, and I ask unanimous consent that an editorial from the New York Times, "Stifling Public TV," an article from the New York Times, "Tampering Cited in Public TV Role," and an article by John Carmody of the Washington Post, "A Funding Compromise?" all detailing the most recent lineup of the various programs that will be funded by the Corporation, be printed at this point in the RECORD.

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

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INDEPENDENT PUBLIC-TV ADVOCATE—THOMAS BRADFORD CURTIS

(By Lawrence Van Gelder)

"People say that I am a good advocate," Thomas Bradford Curtis observed the other day. "If that is so, it is because I advocate what I believe in." Yesterday, the round-faced, baldish, 62-year-old former United States Representative was advocating a reassertion of its "independence and integrity" by the Corporation for Public Broadcasting. On April 14, Mr. Curtis, a lifelong Republican, resigned abruptly from the corporation's board, and yesterday he accused the White House of tampering with the 15-member board appointed by the President to oversee public broadcastnig.

In a way, it seemed natural that distaste for what he regards as tampering should impel Mr. Curtis to dramatic action. It was distaste for Democratic political bossism rampant in Kansas City and St. Louis that launched him into Republican politics before World War II, despite the fact that he came from a traditionally Democratic family.

IN HOUSE 48 YEARS

Referring to rule by bosses, he said, "It just didn't strike me as being very good." During his Congressional career, he was to lash out at President Lyndon B. Johnson for "using wheeling and dealing tactics rather than appeals to reason to get measures enacted."

Mr. Curtis was elected to the House in 1950 from a largely Democratic district in his native Missouri and served for 18 years, until he was defeated in 1968 in a campaign for a Senate seat that pitted him against Thomas F. Eagleton, then Missouri's Lieutenant Governor.

One of the most influential Republicans in the House, Mr. Curtis served for 16 years on its Ways and Means Committee and became the ranking Republican on the Joint Economic Committee.

He was known as an expert on foreign trade and tariffs and a fiscal conservative of such respected principle that he managed the unusual feat of winning repeated endorsement from the New York-based Committee for an Effective Congress as well as backing from Americans for Constitutional Action, a conservative group.

OTHER POSITIONS

After leaving Congress, Mr. Curtis became a vice president and general counsel for the Encyclopedia Britannica, the position he now holds. But he continued in public affairs.

In 1969, he was appointed by President Nixon to an advisory commission to develop a plan for the creation of an all-volunteer armed force. In 1970, he headed a committee established by the Twentieth Century Fund that advocated full disclosure of all money given to Congressional campaigns.

In 1971, he served on a private commission on foundations and philanthropies, and late that year President Nixon appointed him to the Rent Advisory Board as chairman.

Last year, he was appointed by the President to the seat on the board of the Corporation for Public Broadcasting formerly held by John Hay Whitney.

On Sept. 15, 1972, four days after his confirmation as a director by the Senate, he was named chairman of the board.

DARTMOUTH ALUMNUS

Mr. Curtis was born in St. Louis on May 14, 1911, the second of five sons of the former Isabel Wallace and Edward G. Curtis, a lawyer.

He grew up in Webster Grove, a suburb, and after attending public schools entered Dartmouth, where he earned a letter as an inside left on the soccer team and an A.B. in 1932. He received his law degree in 1935 from Washington University in St. Louis, an institution his grandfather had served as dean.

Then he entered practice with his father.

Mr. Curtis is married to the former Susan R. Chivvis. They have five children. Mr. Curtis, whose wife describes him as a 'wrinkled and casual" dresser, spends his spare time reading and writing. He is at work now on his third book—about the House of Representatives.

A FUNDING COMPROMISE?

(By John Carmody)

The Senate is expected to pass a two-year, $140-million authorization for public broadcasting sometime next week, in what would be the first step toward an invigorating injection of funds into the strife-torn industry.

Meanwhile, public TV faces a programming disaster for the fall and winter when most solid reruns could be offered to Public Broadcasting Service (PBS) audiences, which in recent years have numbered around 40 million a week.

The Ford Foundation, a consistent major donor to public TV in the past, appears adamant in its decision to withhold an $8.4 million grant from the network this year, pending a favorable decision in the long battle between the Corporation for Public Broadcasting and the supporters of PBS. Ford backs the network, which the CPB has threatened to take over.

In addition, major corporate gifts from firms like Mobil and Xerox, usually spent for major dramatic series, are being withheld.

As a result, PBS planners this week sketched in their fall schedule, working with a budget of only $6 million in federal money. Already short of public affairs programming, PBS officials currently fear that:

"New" prime-time programming for the network's 1973–74 season, will suffer a 75 per cent reduction, to as few as four hours weekly, compared to an average of 16 hours a week offered this past season. Reruns would be inserted to fill out the schedule.

Of the eight "new" shows scheduled for the fall season, only three are sure to last through the second half of the broadcast year. At the start of last season, 17 network shows were aired weekly.

Unless money is found soon, it is possible that by January, new shows would appear only one night in seven on PBS.

"The Advocates" now partially funded, will be cancelled since its producers in Boston would be unable to assemble a top research team unless a full 26-week schedule could be funded from the start.

Two new major drama series to be imported from England will be postponed—at best. They were to be funded by major corporations, but private funds continue to shrivel because of uncertainties over the federal budget and the outcome of public broadcasting's internal war.

A Xerox Corp. proposal to rebroadcast on PBS the acclaimed "America" series recently concluded on NBC is only one of the losses expected next season if current conditions continue.

Network officials, however, emphasize that daily daytime schedules for the important children's fare—"Sesame Street," "The Electric Company" and "Misterogers' Neighborhood"—are safe from the economy ax next season.

All three are funded by a $6-million portion of the PBS total grant of $13 million. They also have independent income sources to carry them through other seasons.

Another $1 million in PBS grants has been allocated to Children's Television Workshop in New York to research an adult health series, due perhaps in 1974.

Should the network-CPB fight be resolved by mid-summer, Ford would probably add at least four public affairs shows to the fall schedule. The status of the BBC-produced drama shows would be uncertain. Meanwhile, the weekly PBS viewer would be faced with an imbalance of new public affairs programming and a dearth of new drama and entertainment fare.

Meetings of the two public broadcasting boards involved are scheduled this month but no quick solution is expected by either side at this time.

Conceivably, network officials fear, the severe cutback to a 4-hour weekly prime-time schedule could endanger the PBS operation itself. The 234 public-TV station operators who support PBS might be forced to determine the cost effectiveness of a national "interconnection" offering such a minimum daily program diet.

Thus, the industry is focusing its attention on Senate action next week, as rumors of a funding compromise with the White House abound—and as both money and time run out for next year's schedule.

The two-year authorization is sponsored by Sens. Warren G. Magnuson (D-Wash.) and John O. Pastore (D-R.I.). It is similar to a bill passed by both houses last year but vetoed by President Nixon in June.

The White House for the past two years has urged a one-year, $45-million bill for public broadcasting, which would have increased public TV's annual programming budget to around $20 million annually. Following the veto the administration bill was attached to an HEW-Labor money bill last fall and failed to survive another presidential veto. Since then CPB—and PBS—have been operating on a $35-million continuing resolution, which maintains the $13 million level for the network but ignores an estimated 10 to 14 per cent annual inflation loss each year.

The Magnuson-Pastore bill would allow CPB $55 million plus $5 million in matching funds for fiscal 1974 and $75 million plus $5 million in matching funds the next year.

The bill has been endorsed by the CPB board of directors, despite its battle with PBS and its supporters over control of the network.

A Hill source said yesterday that the CPB support could mean that the administration—which had earlier submitted a $45-million, one-year bill which was not reported out of committee—is prepared to compromise.

These sources indicate that the White House would accept a one-year authorization of $60 million if Congress dropped the two-year funding, which the administration has opposed.

Meanwhile, PBS must plan on the "pessimistic" assumption that only a $35-million continuing resolution would be in force again next year.

Based on that pessimistic estimate, CPB approved a $13-million budget for PBS several weeks ago.

Six million dollars of that sum, however, goes to children's programming. A further $1 million has been ticketed for research into

an adult health series this year by Children's Television Workshop.

PBS planners with only $6 million, from which they have managed to pencil in eight programs for next fall: "Zoom," "Masterpiece Theater," "Special of the Week," "Book Beat," "Black Journal," The Advocates" and "Wall Street Week."

"Zoom" was guaranteed a full season just this week, when the McDonald's Corp. matched the CPB programming money.

All of the others, except "Special of the Week" and "Book Beat" are underfunded for a full season, according to PBS officials, and must wait on not only the federal budget but Ford Foundation money as well.

In the wings for the winter half of the 1973–74 season are three other shows. They include the "Theater in America" drama series announced earlier this week by Exxon Corp. and CPB; a science program to be produced in Boston by WGBH, and a possible combination of specials produced by Channel 26 (WETA) here.

These could include "Interface," an all-black program and additional documentaries produced by the National Public Affairs Center for Television (NPACT).

Mr. MAGNUSON. Mr. President, when Congress enacted the Public Broadcasting Act of 1967, and thereby created the Corporation for Public Broadcasting, we declared unequivocably that the Corporation must be insulated from all governmental pressures—executive as well as legislative.

Even if Congress had not expressly said so, however, this freedom had to be axiomatic if the Corporation were to fulfill the mandate given it. Otherwise how could we expect it to serve public television in such sensitive areas as programing and disbursement of Federal funds.

As vital as this freedom is, however, it is equally important that the public, the individual stations, and the men and women in industry believe the Corporation is free from political pressures.

Even though the Corporation may in fact be insulated from governmental interference, if the contrary appears to be the case then confidence in its integrity and dedication to excellence will be weakened. In that event, the Corporation may just as well be subject to the political currents of the moment, because it will have lost the faith of its constituency and its demise will only be a matter of time.

Mr. President, I cannot emphasize too strongly the importance of the appearance of this freedom from government interference. To me loss of it is the great danger that confronts the Corporation for Public Broadcasting today. The air is full of charges and denials that officials in the administration are attempting to influence the activities of individual members of the Corporation's board of directors, and reshape public broadcasting according to its orthodoxy.

Significantly, these charges are not being made by special interest groups, or others whose objectivity or motives might be questionable.

Recently, the chairman of the board of directors of the Corporation, Mr. Thomas B. Curtis, an administration appointee—resigned because, in his words, the White House had "tampered with" the independent board, in express contradiction to assurances that he received.

At this point, Mr. President, I ask unanimous consent to insert into the RECORD a news story which appeared in the April 24 edition of the New York Times, based on a 2-hour interview with Mr. Curtis in which he discussed the circumstances surrounding his resignation, and his reasons for asserting that the White House had tampered with the independence of the board.

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

"TAMPERING" CITED IN PUBLIC-TV ROLE

(By McCandlish Phillips)

CHICAGO, April 23.—Thomas B. Curtis, chairman of the Corporation for Public Broadcasting until he resigned abruptly a week ago, said today that the White House had "tampered with" the independent board, in express contradiction to assurances that he had received.

In a two-hour interview with The New York Times in his office here, Mr. Curtis made his first comments since his resignation, explaining that in his view the integrity of the board had been threatened by White House interference.

Mr. Curtis said it was now imperative that the board "reassert its independence and integrity" by devising procedures that would effectively insulate it from political pressures.

"I had the clear understanding that the President wanted us to so set up the Corporation for Public Broadcasting that public broadcasting could not be made a propaganda arm for the Nixon Administration or for any succeeding administration," the Republican appointee said.

Mr. Curtis said he had responded to that assurance by seeking to establish procedures by which "the whole Congress and the public" would have full confidence in the independence of the board.

"You can see what happens when officials in the White House constantly talk to members of the board, calling them privately and interfering with the process" of deliberation, he said.

Mr. Curtis continued:

"When it became clear that the White House was not respecting the integrity of the board, then I couldn't defend the integrity of the board the way I had.

"This board has been under very severe attack in the news media for the past 5 months, with people saying that it was involved in a 'Nixon takeover,' and I have defended it vigorously—and I underscore vigorously.

"I don't believe I could defend the board with that kind of vigor any more. When I felt I could no longer do that, I felt I better resign."

At no point in his lengthy analysis did Mr. Curtis name the individuals who had allegedly interfered with the deliberations of the board, saying that he was determined to discuss an important public issue and refrain from referring to personalities.

WHITEHEAD IS NAMED

His sole reference to an individual by name was in a side reference to Clay T. Whitehead, director of the White House Office of Telecomunications Policy.

"I asked Mr. Whitehead, when he testified [before the Pastore Committee] to state that the White House respected the integrity of the board and felt that it was essential to maintain it, and I thought he would, but he didn't," he said.

Mr. Curtis ventured that President Nixon's "ideas about this have been shot down by people in the White House who don't understand the basic importance of why this board has to act independently."

His resignation on April 14 came in the wake of a decision by the board, by a 10–4 vote, to defer action on a carefully worked-out compromise plan determining the operating structure of public broadcasting.

The plan was designed to adjust relations between the Corporation for Public Broadcasting, created by Congress to oversee public television, and the country's 233 public television stations. It would have assured that the stations would retain a large measure of control in public television's national programming.

"I was surprised," Mr. Curtis said. "I thought the board would agree to the plan, and I still think the members were ready to when the White House interposed. I felt that the board had been tampered with, and I told the board that. I sent the President a copy of my letter."

KEEP HANDS OFF

The compromise plan, far from being the sole viable solution, was just one of many possible plans that might have worked, he said.

"It wasn't the deferral that disturbed me, it was the fact of interference," Mr. Curtis explained. "That was contrary to what I had understood the White House had agreed to do—namely, keep hands off."

Mr. Curtis said that calls had been made to board members up to the very eve of the meeting on the compromise plan. "Four of the members told me they had been called, and two of them resented it," he said.

"I think the calls were primarily to shoot down the compromise," he asserted. "When a decision is about to be made, that's when they shouldn't be messing around.

"You don't interfere even by making phone calls. This kind of communication is improper."

His manner throughout the interview was good-humored, relaxed, plain spoken. "I'm not angry at anybody," the former Missouri Representative said. "I was there trying to do a job, and if I cannot defend the board as I did, I'm not useful any more.

"My aim was the integrity of the board. That was the sine qua non."

Mr. Curtis said that Congress had acted to create what it regarded as "an independent, nongovernmental corporation." The key to it, he said, are a six-year term for board members, "thereby exceeding the term of office of the President," and staggered terms, so that no President could appoint a majority to the board in a single term of office.

He likened the position of the C.P.B. in the Government to such regulatory agencies as the Federal Trade Commission and the Federal Communications Commission. "They are arms of the Congress, not of the Executive," he said.

Congress ruled that "no more than 8 of the 15 board members of the corporation be of the same political party, and it required that the board itself elect its own chairman," Mr. Curtis pointed out. That, he said, showed Congress' intent.

Mr. Curtis said that "most of these agencies have developed procedures which insulate them against political pressures of the Executive, and this board should be doing the same thing."

"Unless this board reasserts its independence and integrity," he continued, "and all groups respect this, I don't think the Congress will go along with having the Government in public broadcasting, because then you don't have it insulated against normal political pressures.

"All that's happened here is that the Executive has tried to get its opinion into the board—it isn't necessarily a takeover—but there's a proper way to go about it: Write a letter and make the letter public, not going

behind closed doors and saying God only knows what talking to one commissioner at one time, to one at another time."

Mr. Curtis said the C.P.B. must "adopt firm rules" and deliberate decisions on the basis of "facts and fair arguments." "The way you deliberate is by letting everybody hear the same thing in a common forum," he said.

Mr. MAGNUSON. Others have spoken out as well. One of the most successful and distinguished stations in the public broadcasting system—WGBH, Boston—has, according to an article appearing in the April 27 edition of the Washington Post, threatened to refuse Federal funding for the coming fiscal year unless assured that the Corporation is not subject to "improper influence" from the White House.

If this occurs it would mean the end of the very popular children's program "Zoom" as well as the cancellation of "The Advocates."

Another distinguished Washington newspaper, the Evening Star & Daily News, has expressed its apprehension in an editorial on public television dated April 26.

The point, I believe Mr. President, is obvious. The independence and integrity of the Board of Directors of the Corporation for Public Broadcasting is being questioned, and this fact in and of itself threatens to undermine public confidence.

I, therefore, urge the Directors to move quickly and decisively to allay the fears and suspicions that have arisen. The fact of their independence is not enough, the public must believe it.

Mr. PEARSON. Mr. President, I support strongly the passage of S. 1090, a bill to extend the authorization of the Corporation for Public Broadcasting, and the authorization for facilities for noncommercial educational broadcasting. I commend the leadership of our distinguished Commerce Committee chairman (Mr. MAGNUSON), and our distinguished Communications Subcommittee chairman (Mr. PASTORE), in advancing the cause of public broadcasting. The legislation before the Senate today is essential if public broadcasting is to survive and prosper in an atmosphere absolutely devoid of political pressure and influence.

At its March meeting the Board of Directors of CPB adopted a resolution strongly urging the enactment of the Magnuson-Pastore bill. In its resolution the Board declared:

> The Corporation regards the two-year authorization as basic to sound planning for public radio and television activities and to the efficient use of taxpayer dollars. The Corporation regards the $60 million and $80 million levels for Fiscal 1974 and Fiscal 1975, respectively, as essential to the maintenance of a pattern of deliberate growth in public broadcasting's quality and quantity of services to the American tpeople.

I share the view of the Board and would urge passage of S. 1090, the opposition of the administration notwithstanding. The increase in funding and the assurances provided by a 2-year authorization are needed in order to achieve the level of excellence and diversity called for under the Public Broadcasting Act of 1967.

COMMUNITY SERVICE GRANTS—TELEVISION AND RADIO

If the Magnuson-Pastore authorization package is adopted and funded, the Corporation for Public Broadcasting in fiscal 1974 will substantially increase direct support to local stations through community service grants. In fiscal 1973, approximately $6.6 million is going to local stations to be used for purely local services. In view of the fact that CPB is limited by its continuing resolution to an overall appropriation of $35 million in fiscal 1973, this commitment to community service grants must be regarded as substantial. The Corporation proposes to make such grants totaling $19 million in 1974—assuming that $60 million is appropriated for the year. An allocation of this magnitude will help guarantee the fiscal stability of the local station—an element indispensible to an effective system of public broadcasting.

OTHER PROGRAM INCREASES

CPB proposes to increase its commitment to programs for public television by $9.4 million in fiscal 1974. Programs for public radio will receive an increased commitment of $818,000. Although CPB envisions, under the terms of S. 1090, an increase in obligational authority of about $24.5 million, it proposes to increase its professional staff by only nine positions. Virtually all the proposed increase will flow directly to the production and distribution of programs, and to the support of local stations. The CPB, in short, proposes not to build an empire, but to materially increase the level of services provided the public broadcasting system in the United States.

THE INDEPENDENCE OF PUBLIC BROADCASTING

There are serious issues in public broadcasting involving the relationship between the Corporation and the Public Broadcasting Service—which represents the local TV stations. These issues have not been resolved by the parties in this relatively new and expanding field of public service. The legislation before the Senate today properly does not attempt to arbitrate disputes between the stations and the Corporation. There may be an opportunity in the future for our committee to consider substantive changes to the Public Broadcasting Act of 1967. Suffice it to say that both the stations and the Corporation will suffer if S. 1090 is not approved and signed into law. This legislation is a modest attempt to salvage and promote those values in public broadcasting which are universally regarded as worthwhile and in the public interest.

Mr. President, the independence of public broadcasting from political influence and interference must be maintained. This independence is a condition precedent to the continuation of public funding in broadcasting under the mandate of the first amendment to the Federal Constitution. If the Congress, the industry, and the American people cannot devise a public broadcasting system wholly independent of political influences, then the experiment must be abandoned. The issue, in light of our profound commitment to the Bill of Rights, is as simple as that.

It is estimated that public broadcasting has an audience of some 40 million Americans. There can be no compromise: public broadcasting must be free.

The prospects of 40 million citizens watching public affairs programing directly or indirectly controlled by elected leaders is anathema to our cherished concept of freedom of speech and press.

In this context, Mr. President, I cannot adequately describe my concern over certain remarks made by a high-level White House adivser to the President on the Dick Cavett Show in mid-March of this year. The adviser attacked several PBS public affairs programs as "unbalanced against us," whoever "us" is, and coupled the attack with an affectionate—almost gleeful—recollection of the Presidential veto of the CPB authorization package approved by the last Congress. The clear impression left with the Cavett audience after this performance was that CPB would be severely limited in funding until its programing conforms more closely to the perceived values of high-level political appointees. Reportedly because of lack of funding, CPB has announced the cancellation of all the programs mentioned critically by the White House adviser on the Cavett show—except "Black Journal," which was proclaimed as "unbalanced against us" but perhaps has other redeeming social merits.

I do not accuse CPB of callous disregard of its mandate to be wholly independent in performing its duties. And I can understand the need to abandon some program grants in light of the possible budgetary limitations in the fiscal 1974 cycle. I can even understand the decision to salvage educational and cultural programing at the expense of public affairs commentary.

In my judgment CPB need not sacrifice public affairs programing on the altar of expedience in order to salve educational and cultural programing. The CPB must be afforded adequate funding to insure the responsible growth of all of its important activities. And public affairs programing, insulated from political interference, is an important activity of public broadcasting.

Mr. President, I have the highest regard for the members of the Board of the Corporation for Public Broadcasting. As the distinguished Senator from Rhode Island has observed, if I may paraphrase his words, the Congress could not have selected a more distinguished or qualified Board from among all the people of this Nation. I believe the resignation of CPB Chairman Tom Curtis was a tragic loss to public broadcasting, and it is regrettable that the transcending need for Board independence was a factor in Mr. Curtis' decision to resign. The Communications Subcommittee during hearings on S. 1090, assured the Board of its continuing commitment to Board independence. And the Board in turn reaffirmed its commitment to this requirement, the sine qua non of the whole enterprise.

I trust the Senate today will communicate, in these deliberations, the strongest possible commitment to independence in public broadcasting as well as full con-

fidence in the members of the Board of CPB. How petty it would be, and how unfortunate, if the Congress were to reduce appropriation levels for CPB because of a perceived affront to a powerful Member by some commentator on a public affairs PBS program. Neither the Congress nor the administration should use the power of the purse in retribution against the beneficiaries of any governmental program. It is particularly important to follow this proscription in considering support for public broadcasting, as the fundamental freedom of Americans to be informed by independent commentators hangs delicately in the balance.

Mr. President, the passage of S. 1090, as reported by our committee, will signal not only our commitment to the financial support of local stations, and the educational and cultural programing of public broadcasting, but also our commitment to true independence in publicly supported public affairs programing. This action will signal our confidence in the people who have been charged with the responsibility to carry out the mandate of the act.

It is a most important bill.

Mr. PASTORE. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

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

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

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

The bill (S. 1090) was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. Moss), the Senator from Georgia (Mr. NUNN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Alabama (Mr. SPARKMAN), are necessarily absent.

I further announce that the Senator from New Jersey (Mr. WILLIAMS), is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Utah (Mr. Moss), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senators from New York (Mr. BUCKLEY and Mr. JAVITS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mr. GURNEY), the Senator from Nebraska (Mr. HRUSKA), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senators from Ohio (Mr. SAXBE and Mr. TAFT), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from Arizona (Mr. GOLDWATER). If present and voting, the Senator from Illinois would vote "yea" and the Senator from Arizona would vote "nay."

The result was announced—yeas 66, nays 6, as follows:

[No. 119 Leg.]

YEAS—66

Abourezk	Fong	Metcalf
Aiken	Gravel	Montoya
Allen	Griffin	Muskie
Baker	Hart	Nelson
Beall	Haskell	Packwood
Bellmon	Hatfield	Pastore
Bible	Hathaway	Pearson
Biden	Hollings	Pell
Brooke	Huddleston	Proxmire
Byrd, Harry F., Jr.	Hughes	Randolph
	Humphrey	Schweiker
Byrd, Robert C.	Inouye	Scott, Pa.
Case	Jackson	Stafford
Chiles	Johnston	Stevenson
Clark	Kennedy	Symington
Cook	Long	Talmadge
Cotton	Magnuson	Thurmond
Cranston	Mansfield	Tower
Curtis	Mathias	Tunney
Dole	McClellan	Weicker
Dominick	McGee	Young
Eagleton	McGovern	
Ervin	McIntyre	

NAYS—6

Bartlett	Hansen	McClure
Fannin	Helms	Scott, Va.

NOT VOTING—28

Bayh	Fulbright	Ribicoff
Bennett	Goldwater	Roth
Bentsen	Gurney	Saxbe
Brock	Hartke	Sparkman
Buckley	Hruska	Stennis
Burdick	Javits	Stevens
Cannon	Mondale	Taft
Church	Moss	Williams
Domenici	Nunn	
Eastland	Percy	

So the bill (S. 1090) was passed, as follows:

S. 1090

An act to amend the Communications Act of 1934, to extend certain authorizations for the Corporation for Public Broadcasting and for certain construction grants for noncommercial educational television and radio broadcasting facilities, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 396(k)(1) of the Communications Act of 1934 is amended to read as follows:

"(k)(1) There is authorized to be appropriated for expenses of the Corporation $55,000,000 for the fiscal year ending June 30, 1974, and $65,000,000 for the fiscal year ending June 30, 1975."

(b) Section 396(k)(2) of such Act is amended by striking out "1973" and inserting in lieu thereof "1975".

(c) Section 391 of such Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 391. There are authorized to be appropriated for the fiscal year ending June 30, 1974, and each of the three suceeding fiscal years such sums, not to exceed $25,000,000 in any such year as may be necessary to carry out the purposes of section 390. Sums appropriated under this section for any fiscal year shall remain available for payment of grants for projects for which applications, approved under section 392, have been submitted under such section prior to the end of the succeeding fiscal year."

SEC. 2. Section 399 of the Communications Act of 1934 is amended by inserting "(a)" after "SEC. 399." and by inserting at the end thereof the following new subsection:

"(b)(1) In order to assure compliance with this section and with other provisions of this Act requiring fair treatment of matters in the public interest, every license of a broadcast station which receives assistance under this title shall make audio recordings of each broadcast of a program in which issues of public importance are discussed, and shall maintain such recordings for a period of sixty days from the time such program is broadcast. Copies of these recordings shall be made available to the Commission upon its request, and to any member of the public upon payment of the reasonable costs associated with the making of such copies: *Provided*, That the foregoing requirement may be satisfied by retention of the audio tape by the Corporation for Public Broadcasting or any authorized entity.

"(2) The Commission shall by rule prescribe the manner in which such recordings shall be kept, and the conditions under which they shall be available to the members of the public, giving due regard to the goals of eliminating unnecessary expense and effort and minimizing administrative burdens.".

The title was amended, so as to read: "A bill to amend the Communications Act of 1934, to extend certain authorizations for the Corporation for Public Broadcasting and for certain construction grants for noncommercial educational television and radio broadcasting facilities, and for other purposes."

Mr. PASTORE. Mr. President, I move that the vote by which the bill was passed be reconsidered.

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

The motion to lay on the table was agreed to.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with statements therein limited to 5 minutes.

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

WATERGATE

Mr. TUNNEY. Mr. President, never in our history has the foundation of trust in our Government been so severely shaken as now with the revelations of a vast political conspiracy coordinated from the White House.

Watergate has unleased a tidal wave of cynicism and doubt across our land, and credibility in our institutions is crumbling.

If credibility is to be restored—and if the doubts reflected in recent public opinion polls are to be resolved—swift action must be taken to assure an independent and thorough investigation of Watergate.

This morning, Elliot Richardson finally acknowledged that, as Attorney General, he plans to appoint a special prosecutor and "give him all the independence, authority and staff support" needed.

He gave no indication of how he plans to implement such a mandate. Nor did he say whom he will appoint.

He should do both when he makes his opening statement Wednesday at his confirmation hearing before the Senate Committee on Judiciary.

The committee, in my judgment, should jointly act on the qualifications of both Mr. Richardson and his designee as prosecutor.

Already, events may be getting beyond the control of an independent prosecutor. In Florida, one man has been indicted—a hasty event, which may foreclose needed testimony on the implications of the case. Only time will tell.

We need an independent prosecutor immediately with full authority to continue or to alter investigative activities or, indeed, to pursue presently unexplored activities.

Mr. Richardson insists that the man he will appoint must report only to him. It is imperative, therefore, that the Judiciary Committee, in the context of the ongoing Watergate investigation and related developments, consider not only Mr. Richardson's qualifications but also those of his subordinates.

Clearly, independence from any political string pulling is essential to the investigation into Watergate. All leads must be followed. All clues must be developed. All efforts at coverup must be overcome, so that all the facts are brought to light and the guilty are brought to justice.

Mr. Richardson, of course, owes a great deal to the President. Even though I have no doubt about Mr. Richardson's integrity, I feel that the American people want assurance that it will not be possible for anyone to interfere with this investigation.

I think it would be most helpful to all of us serving on the Judiciary Committee for Mr. Richardson, when the committee convenes on Wednesday to consider his qualifications, to announce who it is that he intends to name as the special prosecutor, assuming that Mr. Richardson is confirmed by the Senate.

Now, if it is impossible for the Attorney General-designate to give us an indication as to who he will name, I reserve judgment at the present time on whether or not I could vote for his confirmation. However, it seems to me that the Senate ought to consider the possibility of having Congress appoint the special prosecutor. It would seem that to do that, a resolution would be required which would duplicate procedures that safeguarded the investigation into the Teapot Dome scandal of an earlier generation.

Specifically, such a resolution would empower Congress to appoint a bipartisan prosecution team of two persons, one a Democrat and the other a Republican, both persons of consummate integrity. Such a team developed the truth in the scandal in the 1920's, and it certainly could do the same in this case. It would utilize the investigative facilities of the FBI and other arms of government, but its codirectors would be totally beyond the reach of manipulation or the silencing hand of superiors.

Although I do not feel that such a resolution at this particular moment is essential, if Mr. Richardson cannot give us some indication on Wednesday of who he plans to name and if he feels that he cannot give us any indication until such time as his nomination is confirmed by the Senate, then it may very well be appropriate for Congress to take action on a congressionally appointed special prosecutor resolution.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, May 7, 1973, he presented to the President of the United States the enrolled bill (S. 518) to abolish the Offices of Director and Deputy Director of the Office of Management and Budget, to establish the Office of Director, Office of Management and Budget, and transfer certain functions thereto, and to establish the Office of Deputy Director, Office of Management and Budget.

ORDER FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, immediately after the two leaders have been recognized under the standing order, the following Senators be recognized, each for not to exceed 15 minutes and in the order stated: Mr. PROXMIRE, Mr. GRIFFIN, Mr. BROCK, and Mr. ROBERT C. BYRD.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR UNFINISHED BUSINESS TO BE LAID BEFORE THE SENATE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate tomorrow upon the expiration of the 15-minute orders for the recognition of Senators, and that at no later than 10:59 a.m. the unfinished business be laid before the Senate.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 10 a.m. After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes, and in the order stated: Mr. PROXMIRE, Mr. GRIFFIN, Mr. BROCK, and Mr. ROBERT C. BYRD.

At the conclusion of those orders, and not later than 10:59 a.m., the unfinished business will be laid before the Senate.

At no later than 11 a.m., the Senate will proceed to the consideration of the so-called EDA bill, H.R. 2246, on which there is a time agreement. Yea-and-nay votes will occur on tomorrow.

The unfinished business, S. 352, will be resumed upon the disposition of the EDA bill or upon the close of business tomorrow, whichever is the earlier.

ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and at 3:27 p.m. the Senate adjourned until tomorrow, Tuesday, May 8, 1973, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate May 7, 1973:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Lewis M. Helm, of Maryland, to be an Assistant Secretary of Health, Education, and Welfare, vice Robert O. Beatty, resigned.

DEPARTMENT OF THE TREASURY

Edward C. Schmults, of New York, to be General Counsel for the Department of the Treasury, vice Samuel R. Pierce, Jr., resigned.

IN THE ARMY

The following-named officer to be placed in the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. Frank Thomas Mildren, [redacted], Army of the United States (major general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of Section 3066, in grade as follows:

To be general

Lt. Gen. Melvin Zais, [redacted], Army of the United States (major general, U.S. Army).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Gloria E. A. Toote, of New York, to be an Assistant Secretary of Housing and Urban Development, vice Samuel J. Simmons, resigned.