# SENATE—*Wednesday, May 9, 1973*

The Senate met at 11 a.m. and was called to order by Hon. GAYLORD NELSON, a Senator from the State of Wisconsin.

## PRAYER

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

Almighty God, whose rulership transcends all earthly realms, rule over our hearts and minds in this place. May all lesser loyalties be subordinated to our love of Thee. May every human law be subject to Thy divine law written in hearts and revealed in Thy Word. Forgive our sins and overrule our ignorance. Show us the way to advance Thy kingdom on Earth. And may goodness and mercy, wisdom and strength be in us this day and in all the days to come. When our work is done, may we hear Thee say, "Well done, good and faithful servant."

We pray in the name of Him who went about doing good. 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 second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., May 9, 1973.*

*To the Senate:*

Being temporarily absent from the Senate on official duties, I appoint Hon. GAYLORD NELSON, a Senator from the State of Wisconsin, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
*President pro tempore.*

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

## MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 5383. An act to authorize appropriations for the Coast Guard for the procurement of vessels and construction of shore and offshore establishments, to authorize appropriations for bridge alterations, to authorize for the Coast Guard an end-year strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes;

H.R. 5451. An act to amend the Oil Pollution Act, 1961 (75 Stat. 402), as amended, to implement the 1969 and 1971 amendments to the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended; and for other purposes; and

H.R. 5452. An act to extend and make technical corrections to the National Sea Grant College and Program Act of 1966, as amended.

## ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 1379) to authorize further appropriations for the Office of Environmental Quality, and for other purposes.

The ACTING PRESIDENT pro tempore (Mr. NELSON) subsequently signed the enrolled bill.

## HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred to the Committee on Commerce:

H.R. 5383. An act to authorize appropriations for the Coast Guard for the procurement of vessels and construction of shore and offshore establishments, to authorize appropriations for bridge alterations, to authorize for the Coast Guard an end-year strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes; and

H.R. 5451. An act to amend the Oil Pollution Act, 1961 (75 Stat. 402), as amended, to implement the 1969 and 1971 amendments to the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended; and for other purposes.

## THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, May 8, 1973, 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.

## REORGANIZATION OF FOREST SERVICE REGIONAL OPERATION

Mr. MANSFIELD. Mr. President, this morning, when I appeared before the Appropriations Subcommittee on the Interior, chaired by the distinguished Senator from Nevada (Mr. BIBLE) I asked the committee to give the most serious consideration to doing all within its power to overturn the order issued by Secretary of Agriculture Butz on April 24, which reduced the number of Forest Service regions from nine to six and transferred the headquarters of Forest Service Region No. 1 at Missoula, Mont., to Denver, Colo., approximately 1,000 miles away.

May I say that this, I think, is a most serious and costly misconception of the part of the Federal Government. In this connection I would point out that the Colorado State Senate, a few days ago, passed a resolution by a vote of 29 to 4 asking the Forest Service not to transfer the affected additional personnel to Denver.

Not only is Missoula, Mont., involved, but Ogden, Utah, is also involved, as is Albuquerque, N. Mex.

Mr. President, believe it or not, some of the functions of the regional headquarters at Albuquerque, N. Mex., have been moved as far away as Atlanta, Ga. How that will look in the scheme of regionalization being put into operation by this administration, I do not know. But all I want to say, Mr. President, is that this is not decentralization of government but rather a new and aggravated kind of centralization on a regional basis at the expense of the States.

If the Government really wants to decentralize, it should move many of its offices and bureaus out of Washington, D.C., and the metropolitan area, where they are an octopus and where they are running hog wild.

Mr. President, I ask unanimous consent that the statement I made before the Subcommittee on Department of the Interior Appropriations concerning the phasedown of region No. 1 of the Forest Service, and also on MHD and the energy crisis, as well as other aspects of my testimony, which will be printed in the hearing record, be printed also in the CONGRESSIONAL RECORD.

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

JOINT STATEMENT—SENATORS LEE METCALF AND MIKE MANSFIELD: INTERIOR APPROPRIATIONS—FISCAL YEAR 1974

We would like to submit for the record the recommendations of Senator Metcalf and myself on the remainder of items of interest to Montana.

With respect to the Forest Service, the prime consideration is to release impounded funds and bring the funding level up to that intended by Congress. According to the OMB figures of 14 April of this year, the Administration is holding $664.4 million in Forest Service funds. Virtually every program of the Forest Service is affected, from personnel to road and trail construction and from wilderness management and research to insect and disease control. In the Administration's new budget, additional cuts are made.

We cannot think of a more short-sighted approach to the critical problem of caring for or harvesting a precious renewable resource like our forests. We are not talking about a bureaucratic shuffling of papers, or storage of vehicles, or the guarding of a fence. We are talking about the care of living, growing things which represent a precious asset for this and future generations. Just as no farmer would cure a problem in his fields with further neglect, so we should not be meeting the many problems of our forests with impoundments, budget cuts and counterproductive closures of installations.

Special attention should be made to the restoration of cuts for personnel. They are desperately needed for timber sales and management if the expanded harvest announced by the President is to have any real impact on relieving the current lumber crisis. They are also needed to conduct the necessary environmental impact statements if we are to have a truly meaningful survey of areas which might be upgraded into Wilderness areas.

Personnel are also needed for the valuable SEAM program. SEAM, or Surface Environment and Mining, is a cooperative effort of federal agencies, States, the Northern Great Plains Resource Program and the mining in-

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dustry to produce needed minerals without undue harm to the environment. Coal seams thick enough for exploitation underlie 34 million acres of the 11 Western States. Land distributed by surface mining has increased 30 per cent in the last seven years. Pressures to extract minerals other than coal have also grown in recent years. We must move swiftly to control this mining boom, and SEAM can be a valuable tool in that effort.

Also needed are funds for the FALCON (Forestry, Advanced Logging, and Conservation) program. The aim of this program is development of timber harvesting techniques for environmentally sensitive areas. Congress has already appropriated $5 million for it; the OMB has impounded all of the funds. We urge restoration of these funds and whatever else is necessary to do the research on regeneration, water, soils and logging techniques. We need to explore alternative methods of getting logs out of the forests, such as use of helicopters, balloons and aerial cable systems.

Other areas needing funding include reforestation, forest roads and trails, forest fire prevention, recreational facilities at the Libby Dam, forest research at the University of Montana in Missoula and Montana State University in Bozeman, acquisition of the valuable American Bar property near Helena for a bird sanctuary and the French property on Beaver Creek, also near Helena, for a fish and wildlife preserve.

Turning to appropriations items in the Interior budget, we draw your attention first to the needs of our Indian citizens.

With regard to Indian education, Mr. Chairman, we make our requests in accordance with the Conference Committee's admonition of last year that "funds appropriated for public schools shall be available for construction when it has been determined that local school authorities have incurred bonded indebtedness for the construction of local schools to the fullest possible extent, in accordance with applicable State laws and have otherwise levied maximum school taxes as permitted by State law.

We ask for appropriations for construction of the following schools for Indian children in Montana.

Heart Butte, at the southern edge of the Blackfeet Reservation, has long needed an elementary school. The district has no bonding capacity whatever. At present, 195 pupils (of which 189 are Indian children) attend classes in a ramshackle, patchwork building that should be condemned. The District has requested $2,000,000 for a new school, remodeling, a teacherage, sewer improvements, etc. Efforts to secure funding under Public Law 815 have been unsuccessful.

Hays on the Fort Belknap reservation in north central Montana has a bonding capacity of $16,000. The school district desperately needs to improve and modernize its elementary school for 120 pupils. We reiterate our request of last year for $400,000 for this purpose.

In 1972 we asked the Committee to approve an appropriation of $428,000 to expand and modernize the grade school at Lame Deer operated by Public School District Number Six. The Committee recommended and the Senate agreed but the amount was unfortunately deleted in conference. (You will perhaps recall that the Administration requested $230,000 in Fiscal 1973 to plan a high school. It is our understanding that the Northern Cheyenne have now agreed on a site and that the Bureau of Indian Affairs expects shortly to let a contract for the design.)

Of the 340 pupils in the elementary school, 322 are Indian children. The present facilities consist of a sound building that is too small, supplemented by several trailers, all of which are terribly crowded. Lame Deer has a bonding capacity of $38,000. We believe that their request for an addition to the existing school should have a high priority.

We should remind the committee that at some time in the future the school district's ability to sustain indebtedness or levies will no doubt improve with the development of coal on the Northern Cheyenne Reservation. At present, however, the Tribe is attempting to secure a review of coal leases that have been purchased in order to assure protection of the reservation from environmental damage. The review could take years. Until this is settled, the district is unable to help itself.

Mr. Chairman, the Committee will recall that the Senate last year deleted $70,000 for assistance to Brockton High School on the Fort Peck Reservation, but that the sum was restored in conference. The appropriation permitted the District to complete its plan for a new building. They ask $1,300,000 for construction, site development, furnishings and architectural-engineering costs and contingencies. We hope that the Committee will approve this sum so that the pupils, who are housed in what has been described as a building unfit for pigs or cattle, can attend classes in a safe and proper facility. The District has a bonding capacity of $56,000 which it intends to use for teacher housing.

It is our understanding that representatives of the Pryor Elementary School District will speak to the Committee in behalf of a request for appropriations. The District has a bonding capacity of $89,000, and a current indebtedness of $25,900. We hope that the committee will find it possible to approve their request.

We would like to conclude this portion of our testimony with a strong appeal for the Committee's assistance in obtaining the release of all of the appropriation provided in Fiscal 1973 for the Rocky Boy's Elementary School. The Congress approved $450,000 and the entire amount has been impounded. The Office of Management and Budget has said it will release $125,000 after 1 July. The School District, with a bonding capacity of $8,200, is wholly unable to provide for capital improvements, as the Congress has recognized. The $450,000 appropriation was the second increment of a total of $1,050,000 approved by Congress to permit planning and construction of an elementary school.

The Rocky Boy's Elementary School has earned nationwide praise for its remarkable work in Bilingual Education. Under the leadership first of Bert Corcoran and now of Superintendent Gerald Gray, parents, teachers and pupils have written and illustrated, and printed in their own offset press, textbooks and story books in English and Cree used for instruction in the school. The existing facility is a beehive of activity with every foot of space in use from seven in the morning when the school is opened until ten at night when it is closed. The new building will be ready to open in September. The $450,000 is needed for construction for a lagoon, for furnishings for the school, for teacher housing and site development.

As was true last year, there is an enormous backlog of applications for allocations under Public Law 815. Of the unfunded total of $288 million, $41.3 million represents applications to construct schools for Indian children. The Administration requested $19 million for P.L. 815 in FY 1974, but has said it wishes to expend two-thirds of it for construction of schools for military-connected children. If this is done, the $7.6 million remaining would fund less than one-fifth of pending requests.

Busby School, a boarding school for Indian children now operated by the Northern Cheyenne under contract to the BIA, has asked for an additional $109,000 in operating money for FY 1974, to permit improvements in curriculum, to hire more teachers and other purposes. The BIA budget does not include this sum but we hope the Committee will see fit to favor the addition.

Finally, the Administration has requested the same amount that was appropriated in Fiscal 1973 for Johnson-O'Malley programs, a total of $23,247,000, of which $1,080,000 would be allocated to Montana. Our State Department of Public Instruction informs us that our needs will be adequately met with such an appropriation. We hope it will be approved.

In other matters, Mr. Chairman, we call your attention to the wealth of historic sites and ghost towns which are worthy of preservation. We hope the Committee will see that such preservation is adequately funded and that the funding will come early enough to protect the sites from the ravages of time and vandals.

We are also concerned about the delay incurred in building the Big Horn Canyon Road to service the recreation area which has been created around the Yellowtail Dam. The road, which now extends north from Lovell, Wyoming, should be extended at least to Fort Smith at the site of the dam itself—and ultimately on to Billings.

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### Like 10 Vacuum Cleaners

One of the things both government and business have discovered in recent years is that administrative fragmentation often is more efficient than monolithic unity.

The American Management Association, serving business, calls this the "unit president" concept. The chain of command is kept intact, but the top administrator of each unit is in full charge of that unit. He plans that unit's future with his subordinates, who in turn are in full charge of their units, and so on down the line to the lowest level.

That means the company president has less authority over the lowest unit than the foreman. If the president interferes with the foreman's management, the president makes a major mistake.

The idea is to delegate authority for management and planning because it's been discovered, people like to take responsibility for planning their work and seeing to it that it's done. The result is greater efficiency, higher output and more job satisfaction. It's a form of organized fragmentation, and it works.

Come we now to the federal government, which evidently believes in disorganized fragmentation.

A few years ago some thinkers in Washington thought it would be nice to get government out of the District of Columbia and back to the provinces. (The thinkers in Moscow, it might be noted, occasionally are smitten by similar thoughts.)

So 10 regional administrative units were set up in such outlying spots as Denver and San Francisco and Boston. This was getting government back to the people to make it more efficient and responsive.

It was a stab at doing right, but now, under the guise of efficiency, the regional administrative binge is having exactly the opposite effect which the unit president—or organized fragmentation—concept postulates.

First bureaucracy is dispersed to the 10 regions, and then—in direct violation of the principle of getting government back to the people—the regional headquarters suck in the outlying bureaucracy like 10 vacuum cleaners.

If the federal government was truly interested in getting government back to the people, it would further fragment administrative controls.

But now Missoula and other regional Forest Service headquarters are being closed so the Forest Service ". . . improve its efficiency and effectiveness in carrying out its resource management, research and state and private forestry programs," in the words of Secretary of Agriculture Earl L. Butz.

Butz has smashed the administration's own theory of making government responsive. He has violated every management principle by his administration diktat. And he has sugar coated this monumental blunder with drivel.

[From the Sunday Missoulian, Apr. 29, 1973]

FOREST SERVICE

On the same day the announcement was made that three Forest Service regional offices—including Missoula's—were being recycled off to Denver and other more efficient spots, the chief of the Forest Service announced that 1.8 billion more board feet would be cut on federal forests this year than last.

Each announcement lent poignancy to the other. If some of the demand for more wood hits western Montana forests and would lead to timber mining in some areas, the dialogue about it will have to be conducted between here and Denver rather than between here and here. Distance from the ground helps foolish men do foolish things, and makes protest concerning any action more difficult.

The key question facing Missoula forest products employes and environmental buffs is not the loss of local payroll. It is this: What administrative tentacles will link western Montana to Denver? What administrative conduits will be laid so that communications concerning all aspects of forestry will be efficient and responsive?

Despite claims that this reorganization off to Denver is being done for more efficiency, that crucial communications question remains unanswered. Until an answer is forthcoming, the real uncertainty and heartache about all this will persist.

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EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
*Washington, D.C., May 4, 1973.*

Hon. MIKE MANSFIELD,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR MANSFIELD: I looked into the matter of Forest Service regional boundaries immediately following our conversation the other evening.

It turns out that the decision to alter the boundaries and the regional office locations had already been made and was announced on April 24. I am assured that your views on the matter were on record and had been considered in the decision. I also understand that your office was notified prior to official announcement. You will shortly receive an explanatory reply to your letter to the President outlining the reasons for the decision and the expected benefits.

There appears to be little inclination either in the Department or in OMB to reopen this decision so recently announced. However, I am sure that the Department will do all it can to minimize the potential adverse consequences in your area, and, if you wish, I would be pleased to arrange for Assistant Secretary of Agriculture Long and Chief McGuire of the Forest Service to meet with you to provide a detailed explanation of the reasoning behind this decision and a briefing on their transition plans.

I'm sorry I cannot be of more assistance in this particular matter.

Sincerely,

JOHN C. SAWHILL,
*Associate Director.*

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U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
*Washington, D.C., May 8, 1973.*

Hon. EARL L. BUTZ,
*Secretary, Department of Agriculture,*
*Washington, D.C.*

DEAR MR. SECRETARY: In connection with the proposed centralization of national forest supervision announced on 24 April 1973, you are hereby requested to make available the following information.

1. Each and every study, report and analysis with all of the supporting evidence, which shows the efficiencies (or inefficiencies) of the proposal to transfer regional offices and personnel, and consolidate or change national forests.

2. For Region 1 for the fiscal years 1971, 1972, 1973 through 1 April 1973 separately by years:

(a) travel by individuals and purpose from Regional office to one or more Forest offices including time, distance, mode of travel and cost for the portion from the Regional office to first stop. Please show comparable cost under proposed change.

(b) travel by individuals and purpose from each national forest to Regional office with data as above. Please make similar comparison as above.

3. Decsribe facilities to be vacated or abandoned by move, cost, value, etc., and the cost of new facilities in Denver and Portland and the net financial impact. Show cost to move equipment, etc.

4. By job title list personnel affected by proposed transfer.

(a) show estimated cost to transfer, including movement of household goods, sale of home, relocation expense and cost to move family, etc.

(b) for each position to be "abolished" show results of various inspections over past four years that discuss the position and summarize whether they recommended strengthening or abolishing position.

(c) for each position to be transferred show results of various inspections over past four years that discuss position and summarize whether they recommended transfer and the reasons therefor and whether they recommended transfer as now planned.

5. Based on the proposal, show analysis of how cost of doing business and effectiveness will be changed by making the changes advocated.

6. One part of your proposal suggests that New Mexico, which has five national forests, be attached to the proposed Atlanta Region. However, Alaska, which has three national forests, is proposed to remain as a Region. Please list the most direct mileage by the most expeditious modes of transportation from:

(a) Atlanta to each New Mexico forest headquarters.

(b) Albuquerque to each New Mexico forest headquarters.

(c) Denver to each New Mexico forest headquarters.

Show the differences in time and cost for each and time as above.

(d) Distance from Missoula to each forest headquarters in Region 1 as now existing.

(e) Same information from Denver or Portland to each forest in proposed revision.

Show the differences in time and cost for each.

(f) Show distance and time from Juneau to each Alaska national forest.

(g) Show same data from each Alaska national forest to Portland.

Show distance in time and cost for each.

(h) Show the key elements of business for each national forest in Alaska, Region 1, and New Mexico, and using time to travel, distance and cost explain the logic of retaining the Alaska "Region" rather than attaching to Portland, the logic of attaching New Mexico to Atlanta rather than leaving as is or attaching to Denver, and the logic of attaching Region 1 forests to Denver and Portland, rather than leaving "as is."

In summary, we want a full and complete explanation of all pertinent facts that demonstrate the efficiency of your proposal. If such studies were not made prior to the date when this proposal was ordered into effect and these data would have to be developed specially to answer our request, any such question can be answered by the statement "Do not know." However, you are advised that the absence of such studies and hard cost and benefit analyses will be considered as extremely significant factors in weighing whether the proposed revamping of the Forest Service structure advances or significantly retards efficient operation of these public assets in the national interest.

We will appreciate a reply at your earliest convenience. Please send a copy of your response to Senator Alan Bible, Chairman, Subcommittee on Interior and Related Agencies, Senate Committee on Appropriations.

Very truly yours,

MIKE MANSFIELD,
*U.S. Senate.*
LEE METCALF,
*U.S. Senate.*

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U.S. SENATE,
*Washington, D.C., May 3, 1973.*

THE PRESIDENT,
*The White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: We were extremely disappointed to learn that the Department of Agriculture has decided to adjust its regional organization to fit within the standard federal region structure and thus phase out the regional offices at Ogden, Utah, Albuquerque, New Mexico, and Missoula, Montana, and the experiment station headquarters at Ogden and Asheville, North Carolina.

We respectfully request that this proposal be reconsidered. Although the new regional concept is sold as an economy move to increase efficiency and effectiveness in managing the national forests, we see it as a negative action which will result in less staff responsibility for more area, increased bureaucracy, and the creation of more distance between the forest managers and the users.

We can understand the logic of concentration in the standard regional offices of those organizations which exist to administer programs emanating from Washington. But the essential program of the Forest Service is to manage national forest land areas, and the present locations were chosen because they were most convenient to those areas. It does not seem wise to us to destroy this convenience simply to satisfy the theoretical desire to get all regional offices in one place.

Because of the serious effect these proposed changes will have on our states' economies, we have met with Department of Agriculture officials to try to resolve this problem. Now we must turn again to you to urge that this order be rescinded.

As you know, from the very beginning of the Forest Service, these regional offices have been located in Ogden, Albuquerque and Missoula. Region I headquarters at Missoula, Montana is one of the most active regions where there are mounting demands for increased timber sales requiring additional on-the-ground management of the forests. Moving the headquarters from Missoula to Denver as proposed would create very difficult problems of communication and transportation. This would place this large Region some eight hundred miles away from Denver. In addition, Region I operates the smokejumper school and the Forest Fire Research Laboratory and associated research facilities at both Montana Universities at Bozeman and Missoula. This proposed move would be an economic blow to this western Montana city and would not provide any great economic benefit to the government. It would, in fact, reduce the proper management of one of the nation's busiest national forest areas.

Of all the announced changes in the regional reorganization of the Forest Service, the relocation of the Albuquerque office to Atlanta is the most nonsensical. The abolition of a regional office that has successfully administered over 20 million acres of forest land since 1908 is completely unwarranted. It would be impossible for Atlanta to successfully administer New Mexico's forest which contain half of the region's total acreage, from over 1,500 miles away. It is equally unlikely that New Mexico will receive the proper representation from the Atlanta region since the areas have completely different topographic, climatic and forestry problems.

Another case in point is the Intermountain Region, which includes all of Utah, southern Idaho, western Wyoming, all of Nevada and a tiny segment of California. For the most part, this is Great Basin country

with high temperatures in the summer, moderately cold ones in winter and precipitation amounts that are less than generous. These factors, plus a general similarity of soil have created plant groupings that lend themselves to the same general management techniques. To split the Intermountain Region would run the risk of taking a team of experts, skilled in managing one particular vegetative situation and scattering team members to where they would no longer be effective. This is hardly an efficient use of taxpayer monies. In addition, closing the Ogden Regional Headquarters will leave the Ogden Federal Building almost empty, leaving a very bitter taste in the mouths not only of the Forest Service employees, but also of the local voters.

We cannot accept the explanation that the regional Forest Service offices must conform to the standard Federal regional structural concept. Since the Forest Service's objective is to administer forests, its regional offices must be located where the majority of the forests are.

Again, we strongly urge that this proposal be reconsidered and that practical values be put above theoretical conformity.

Sincerely,

WALLACE F. BENNETT,
MIKE MANSFIELD,
PETE V. DOMENICI.

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APRIL 28, 1973.

THE PRESIDENT,
*The White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: On my return to the city from an official visit to Mexico, I was very disturbed and disheartened to learn that the Secretary of Agriculture had announced the U.S. Forest Service Regional reorganization during the Easter recess. You may recall that I discussed this matter with you at our last breakfast meeting.

In my estimation this effort to adjust this agency's regional organization to fit with the standard Federal regional structure is unwise and unnecessary. As I recently indicated to you, I am very much opposed, not only because it would mean the closing of the Region I headquarters at Missoula, Montana, but it will create similar problems elsewhere in the west. Moving the headquarters from Missoula to Denver will create some very difficult problems of communication and transportation. Region I, which administers one of the largest National Forest areas, would be some eight hundred miles away from Denver, which now administers Region II.

The Forest Service can be logically exempted from the Federal regional structure because of the nature of its business. Our National Forests are a renewable resource and require continual on the ground management. At a time when there are greater demands on our National Forests it is necessary that the administrative and operational personnel be located in close proximity. Also National Forests are scattered throughout the nation, and they are not uniformly located so as to conform to the United States regional structure.

This proposed reorganization is inefficient, and I cannot envision any financial savings whatsoever. Candidly, I feel that whoever developed this plan is not aware of the resources or the land area involved. You may remember that on your trip to Libby Dam in Montana you flew over a part—a very small part—of Region I's area.

I cannot let this matter rest, and I will be discussing the situation with my colleagues. In your capacity as Chief Executive you can perform a much needed service, in full accord with your policies, by rescinding the Secretary's order.

Respectfully,

MIKE MANSFIELD.

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APRIL 24, 1973.

Senators Mansfield and Metcalf said the announcement by the Nixon Administration that the Regional Forest Service Office at Missoula will be transferred to Denver "is another example of this Administration's distorted view of our natural resource priorities.

"This is not an economy move, but rather a stupid, shortsighted, ill-advised decision which will hinder the proper management of forest resources which are basic to the economy of Montana and the nation," the Montana Senators said in a statement from their Washington offices.

"President Nixon's budget ax has now fallen on an effective facility for the management of important timber resources.

"The personnel most familiar with forest management problems and programs and who have first-hand knowledge and experience will now be required to make decisions in an urban area far from the forest resource they must manage.

"The transfer of management from the immediate vicinity of programs and from the center of the resource will only result in misunderstanding and additional bureaucratic red-tape."

Another important factor, according to the Montana Senators, is that the citizens living in the Forest Service area will not be able to present their views effectively to the officials who will make the decisions.

"Instead, they will have to travel some 800 miles to Denver to present their views, which in our opinion is not in line with the Nixon Administration's policy directive that the government should be close to the people," the Senators said.

"Previous Administrations have considered the Forest Service facilities at Missoula as an outstanding example of how a Federal agency can work with the local citizens in the effort to establish sound management policies and practices.

"But this Administration doesn't want citizen participation in the decision-making process on managing the resources of our national forests.

"The Regional Office in Missoula, along with the fire control center, the forestry research center and the School of Forestry, University of Montana, are important groups attempting to solve many of the problems of forest management."

"This effective team must not be dismantled," the Senator said. "Instead, it would be economically sound to continue the various forest service and university facilities in the same community, and near the center of the resource that they must protect and manage for our benefit and for future generations."

"We will fight this move. We will not stand by and approve a closure decision made by a so-called management expert who doesn't know the difference between chip wood and a tree."

LEE METCALF,
*U.S. Senate.*

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STATEMENT OF SENATOR MIKE MANSFIELD (D. MONTANA) INTERIOR APPROPRIATIONS—FISCAL YEAR 1974

Mr. Chairman, it is always a pleasure to appear before the Subcommittee on Interior Appropriations because this is one of the appropriations bills which has significant influence on my State of Montana. Montana is a large rural state with an abundance of natural resources. The management of these resources by the Federal government is of vital concern. There are two items I wish to address myself to this morning. Senator Lee Metcalf joins me in expressing our concern and will appear before the Subcommittee tomorrow, May 10th.

Mr. Chairman, I also bring with me a prepared statement on behalf of Senator Metcalf and myself on a number of items in the Interior Appropriations Bill for Fiscal Year 1974. I ask that these recommendations be made a part of the record of this hearing at the conclusion of my remarks.

Now, I turn to a matter of extreme concern and overriding importance to the Montana Congressional Delegation. During the Easter recess, the Secretary of Agriculture announced the reorganization of the U.S. Forest Service regional operation, reducing nine regions to six to conform with the existing Federal regional complex. At the outset, such action may appear useful. However, anyone aware of the activities of this Federal agency immediately recognizes that such a reorganization is ridiculous, impractical, and will not save the Federal Government one cent. I am sure that my sentiments are shared by my colleagues from the States of Utah, New Mexico, and North Carolina, all of whom are being hard hit by such action.

Region I which is located at Missoula, Montana, and has been since the Forest Service established its regional system. Region I administers one of the most active national forest areas in the Nation. There are great demands for increased timber sales, improved management. Several important research facilities are located in the area. The Administration now proposes to move the Regional Headquarters to Denver and consolidate Region I and II. Denver is some 800 to 900 miles away without direct public transportation between the two points. The other regional headquarters under this plan in the area is Portland, which is equally inaccessible. There is no way in which I can be convinced that the affairs of Region I can be administered more efficiently from Denver. There are indications that the residents of Denver are not too happy about absorbing this new influx in a city experiencing some serious growth problems.

The problems and day to day business of Region II will obviously receive more attention because of their near proximity. Region I will suffer and become a stepchild. Incidentally, the Colorado State Senate passed a Resolution by a vote of 29 to 4 asking the Forest Service not to transfer the affected additional personnel to Denver.

Region I is made up of the State of Montana, northern Idaho, eastern Washington, and the grasslands in North Dakota and northern South Dakota. Region I headquarters in Missoula administers 26,126,940 acres of National Forest lands. There are 16 national forests within its jurisdiction, 10 in my State, five in Idaho, and one in Washington. The vast majority of the national forests in Montana are in western Montana and if we look at a map we can see that Missoula is the logical, central location. Region II administers 20,000,000 acres of national forest. There are 186,000,000 acres in the entire national system of forest lands. The United States is a very large landholder and it does not seem unreasonable to ask that they continue to be administered from nine regional headquarters. Building up an even larger administrative monster in Denver, in addition to the one in Washington, D.C., is not going to simplify matters. Such action takes away more responsibility and action from local authority.

This is not decentralization of gov't but rather a new and aggravated type of centralization on a regional basis at the expense of the states. If the gov't wants to really decentralize it ought to move many of its offices and bureaus out of Washington, D.C. and the metropolitan area where they are an octopus and where they are running hog-wild.

I do not know what the lumber industry thinks about this move but, if the national forests in Western Montana and Idaho, and nearby areas are to be properly administered, with necessary management, timber sales, surveillance and research, it is going to have to be from the Regional Headquarters in Missoula.

The proposed move of the Regional Headquarters from Missoula would admittedly

be a severe economic blow but, in any other terms, it is also very impractical. The activities of the Forest Service are not the same as other Federal agencies. This agency is involved with the day-to-day management of a renewable resource and, if these personnel are to do a good job, they can't do it from afar. That is just exactly what would happen if the administrative arm of the agency is moved to Denver. There are rumors that the Department wants to move more personnel into the forests for on-the-ground management. I think this is an excellent plan but that does not mean that regional administrative management should be from afar. Movement of some personnel now in the regional office into the individual national forests would be useful.

The U.S. Forest Service has been an active and innovative Federal agency for most of its lifetime and I am now concerned with an obvious effort to clip its wings. If given the proper budget and number of personnel, I am confident that they will provide the management of this great national resource that the citizens of this Nation deserve.

My colleague, Senator Metcalf, and I are adamantly opposed to this reorganization plan for the Forest Service. It is ridiculous to think that it can be effectively made to conform with the overall Regional plan for other Federal activity. One of the fallacies of the computer age in which we live is that everything can conform to an IBM card but not necessarily to people. I ask why not? I think that the members of the Committee know that one of the difficulties we encounter in the legislative process is how to apply national legislation and regulations to the urban and rural, the large and the small, the corporate interests, and the individual. We must have accommodation and I firmly believe that the activities and purposes of the U.S. Forest Service are unique and the present regional setup should be maintained.

After discussing this matter with my concerned colleagues, it is quite apparent that Congress is going to have to take some appropriate action to prevent this reorganization. I propose that the Appropriation Bill for the Department of the Interior and Related Agencies, Fiscal Year 1974, include language in the text of the bill prohibiting the use of any existing funds or those appropriated in the new bill for purposes of reorganizing the Regional operations of the U.S. Forest Service. I intend to pursue this matter through other avenues, but I am confident that a restriction through the appropriation process is the most immediate.

If there are questions about the current effectiveness of the Regional setup, then I suggest a special Commission to review the Regional operations to determine their usefulness. Such a study group should include the Federal agencies, Congress, the lumber industry, and the environmentalists. Such a study should be a prerequisite before any Regional reorganization proceeds.

Mr. Chairman, before proceeding to another subject I ask permission to include in the record of this hearing a series of clippings and correspondence pertinent to U.S. Forest Service Reorganization.

MHD AND THE ENERGY CRISIS

Mr. Chairman, I would now like to turn to another subject of tremendous importance to Montana. The "Energy Crisis" is demanding a considerable amount of attention in recent weeks. Any number of solutions are being offered.

One of the most often discussed new sources of energy is the vast deposits of low-sulphur coal in Eastern Montana and our neighboring states of North and South Dakota and Wyoming. The people of the Big Sky Country are alarmed at the potential of unregulated and poorly planned extraction of these resources. The need for prepianning, reclamation, and other controls are not matters of concern to this Committee other than to impress upon you the need to provide the appropriate Federal agencies with sufficient financial resources to plan and monitor developments in this area.

My purpose this morning is to restate the sentiment of my colleagues and many others—these coal deposits are not the only and most immediate answer to the energy crisis. Most of the information available to me indicates that the real answers to the crisis are a combination of improved practices of conservation and expanded research in new areas of energy production.

If the coal resources of Eastern Montana are to be developed with proper planning and reclamation, this should be done with a maximum of efficiency and a minimum effect on our water resources and the environment. It is for this reason that I appeal to the Subcommittee to increase the funds appropriated for research and development of the magnetohydrodynamics process most frequently referred to as MHD. There are a number of processes which can use low sulphur coal but none more efficiently than MHD. This promises to be the cleanest coal energy system, providing better utilization and a minimum requirement for water which is such a precious resource in the West. MHD technology has not come along as far as I had hoped, due in part to inadequate interest and support within the Administration. The time has come to proceed rapidly to the pilot scale laboratory state of experimentation. I concur in recommendations that a minimum of $8 million be appropriated for this program in the next Fiscal Year. I believe the Administration has requested $3 million. It is time that we move forward—the prospects are encouraging. No other source of power generation is available before another five to eight years.

Extraction of coal can proceed to feed less efficient systems now in operation, but only at the expense of the eastern half of the Nation's fourth largest state. I do not intend to let this happen. I am confident that people of Montana stand behind me in this regard. MHD provides a far more efficient utilization of these resources. It is my hope that the Subcommittee will increase funds requested for MHD research and development in the next Fiscal Year to a level of $8 million.

Senator Metcalf will appear tomorrow and intends to reinforce what I have said today. In addition, he will introduce a panel of experts who will report on what has been done in MHD, where we are going, and how best the Federal Government can support this effort.

Thank you.

## ORDER OF BUSINESS

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

Mr. GRIFFIN. No, Mr. President.

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

Mr. GRIFFIN. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, will the distinguished Senator from Michigan yield me 1 minute?

Mr. GRIFFIN. I yield.

## REFERRAL OF H.R. 5452 TO COMMITTEE ON COMMERCE AND COMMITTEE ON LABOR AND PUBLIC WELFARE

Mr. MANSFIELD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5452.

The ACTING PRESIDENT pro tempore laid before the Senate a message from the House of Representatives on H.R. 5452, which was read twice by its title.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that H.R. 5452, to extend and make technical corrections to the National Sea Grant College and Program Act of 1966, which passed the House of Representatives yesterday and is now at the Senate desk for reference, be jointly referred to the Committee on Commerce and the Committee on Labor and Public Welfare, since a like Senate bill has already been so referred.

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

Mr. MANSFIELD. I thank the distinguished acting minority leader.

Mr. GRIFFIN. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

## VICTORY FOR CONGRESS

Mr. MUSKIE. Mr. President, yesterday, the U.S. District Court for the District of Columbia handed down a significant decision which upheld the intent of Congress to assure adequate financial resources to clean up the Nation's waterways in the next decade.

The court, in deciding City of New York against Ruckelshaus ordered EPA to allot the full $11 billion in construction grant funds authorized by Congress last year over the President's veto. As we know, the President had ordered withholding of $6 billion of these allotments. In reviewing that action, the court stated:

> The language of the pertinent sections of the Act, read in the light of their legislative history, clearly indicates the intent of Congress to require the Administrator to allot, at the appropriate times, the full sums authorized to be appropriated by § 207. Hence, this Court has no choice other than to declare that § 205(a) of the Act requires the Administrator to allot among the states $5 billion for fiscal year 1973 and $6 billion for fiscal year 1974.

This court decision is a victory for the Congress, for the cities, for the American people, and for clean water.

I ask unanimous consent that the full text of the decision be printed in the RECORD at this time.

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

[U.S. District Court for the District of Columbia, Civil Action No. 2466–72]

OPINION

(The city of New York, on behalf of itself and all other similarly situated municipalities within the State of New York, Plaintiff, the city of Detroit, Plaintiff-Intervenor, v. William D. Ruckelshaus, as Administrator of the United States Environmental Protection Agency, Defendant)

This is an action for a declaratory judgment and mandamus to compel the defendant, William D. Ruckelshaus, until recently Administrator of the United States Environmental Protection Agency ("the Administrator") to comply with the Federal Water Pollution Control Act Amendments of 1972, 86 Stat. 816 (hereafter termed "the Act").[1] Plaintiff is the City of New York, suing on behalf of itself and all similarly situated municipalities within the State of New York. The City of Detroit has been granted leave to intervene as a party plaintiff seeking the same relief. The action is brought pursuant to § 505(a) of the Act and 5 U.S.C. §§ 701–706; jurisdiction is alleged on the grounds of 28 U.S.C. §§ 1331, 1332, and 1361.

Plaintiff and plaintiff-intervenor allege that § 205(a), taken together with § 207, of the Act requires the Administrator to allot among the states the sums of $5 billion for fiscal year 1973 and $6 billion for fiscal year 1974, thereby making such sums available for obligation on sewage treatment works construction approved by the Administrator for federal funding. It is further alleged that the Administrator has violated this statutory requirement by promulgating, at the express direction of the President of the United States, a regulation, effective December 8, 1972,[2] which allotted among the states for fiscal years 1973 and 1974 "sums not to exceed $2 billion and $3 billion respectively." The case is now before the Court on plaintiff's motion to determine that this suit may be maintained as a class action, defendant's motion to dismiss, and the motions of plaintiff and plaintiff-intervenor for summary judgment.[3] Also before the Court for consideration are the pleadings, oppositions, affidavits, and arguments by counsel in open Court.

The Court's characterization and analysis of the issues in the case will be clearer if the mechanism set up under the Act for funding the construction of sewage treatment works is briefly outlined. The Act reverses the normal procedure whereby sums are appropriated by Congress and thereafter contractually obligated by the appropriate agency. Instead, Congress has, in § 207, authorized certain specific sums to be appropriated to carry out the purposes of Title II of the Act, Grants for Construction of Treatment Works. The Administrator is required by § 205 to allot the sums among the states according to a time schedule and needs formula set up under the Act.[4] (Whether the full sums authorized to be appropriated must be allotted or only a portion of them—the size of the portion being within the Administrator's discretion—is the central issue disputed by the parties.) Once allotted, the sums become available for obligation, i.e., contract authority exists up to those amounts. The Administrator reviews grant applications submitted by States and municipalities for federal funding of particular waste treatment projects to determine whether they satisfy criteria set forth in the Act, e.g., in § 204. Once the Administrator approves the plans, specifications, and estimates for a project, a contractual obligation arises to pay the federal share allocable to that project.[5] Funds are then appropriated to liquidate the obligations as they fall due; the final step, actual disbursement of the funds, is then made. It is clear from this sequence that *allotment* is not tantamount to *expenditure* or even commitment of the funds.

Footnotes at end of article.

Another feature of the Act which is of some importance in the resolution of issues before the Court is the reallotment provision in § 205(b)(1) of the Act. Once allotted to a State, sums are available for obligation for approved projects there "for a period of one year after the close of the fiscal year for which such sums are authorized." If for any reason the sums allotted are not fully obligated within that period, they are to be reallotted "generally on the basis of the ratio used in making the last allotment of sums under this section." Such reallotted sums remain available for obligation and are added to the State's allotment for the next fiscal year. Any sums authorized but not allotted at the appropriate time are lost to the State under the provisions of this Act. Thus, by refusing to allot the full sums authorized, the Administrator controls the absolute amount (as opposed to the rate) of spending without regard to the standards set forth in, e.g., § 204, for determining whether sums should be obligated.

Having set forth the framework of the Act within which the dispute now before the Court has arisen, the Court will proceed to the issues. First to be dealt with are jurisdictional issues raised in the defendant's motion to dismiss and his opposition to plaintiff's motion for summary judgment. Defendant contends that this Court lacks the requisite jurisdiction because the doctrine of sovereign immunity bars the suit and because the action fails to present a justiciable case or controversy. The Court does not agree with these contentions and will deal with them only briefly.[6]

Two well-settled common law exceptions to the doctrine of sovereign immunity are set forth in two cases cited by defendant, *Dugan v. Rank*, 372 U.S. 609, 621–22 (1963), and *Larson v. Domestic & Foreign Commerce Corporation*, 337 U.S. 682, 689–90 (1949); and plaintiff's action falls squarely within the exception covering suits challenging actions by federal officers which go beyond the scope of their statutory powers. Defendant is not aided by the general rule set forth in *Land v. Dollar*, 330 U.S. 731, 738 (1947), to the effect that where the judgment sought "would expend itself on the public treasury or domain, or interfere with the public administration," the suit is in reality brought against the sovereign; for as subsequent discussion will reveal, the relief sought by plaintiff in the action does not require the expenditure of unappropriated public funds (or indeed of any public funds at all), nor will it interfere with the lawful exercise of defendant's discretionary powers under the Act.

A second reason for rejecting the sovereign immunity defense as a bar to this action is the fact that plaintiff is seeking review in part on the basis of the Administrative Procedure Act, 5 U.S.C. §§ 701–706; the rule in this Circuit is that the A.P.A. constitutes a waiver of sovereign immunity in actions to which it applies. *Scanwell Laboratories, Inc. v. Shaffer*, 137 U.S. App. D.C. 371, 385, 424 F. 2d 859, 873 (1970); *Constructores Civiles de Centroamerica, S.A. v. Hannah*, 148 U.S. App. D.C. 159, F. 2d 1183 (1972). Defendant has sought to distinguish *Scanwell* by contending that there was no question there of any "disposition" of government funds, whereas the instant case presents a "demand" for such funds. As already indicated, this argument must fail because defendant has misconstrued the nature of the relief sought. Plaintiff is demanding only that funds be *allotted* as, in its view, Congress required.

Defendant contends that this action fails, for two reasons, to present a justiciable case or controversy. First it is argued that the action is hypothetical and premature and hence does not fall within the limits of federal court jurisdiction as defined by Article III of the Constitution.

It is true that Article III confines federal courts to the adjudication of cases and controversies and forbids the rendering of advisory opinions. *Golden v. Zwickler*, 394 U.S. 103, 108 (1969). Where a declaratory judgment is sought, the plaintiff must show a "substantial controversy between parties having adverse legal interests of sufficient immediacy and reality" to warrant its issuance. *Maryland Casualty Company v. Pacific Coal & Oil Company*, 312 U.S. 270, 273 (1941). Defendant contends that because plaintiff has no guarantee that projects for which it seeks funding under the Act will be approved, refusal to allot, and thus make available for obligation, the full amounts authorized to be appropriated in § 207 of the Act does not amount to action that is adverse to any real or immediate interests of plaintiff. This argument fails on several grounds. Plaintiff has filed an affidavit of the Commissioner of the Department of Water Resources for the City of New York averring that the City has received approval from the United States Environmental Protection Agency (EPA) for two waste treatment projects, and that because of the reduced allotments, plaintiff's share of available federal funds "will permit only a token start toward completion." (Affidavit of Martin Lang dated April 3, 1973, 115–6).[7] Defendant has not disputed these assertions of fact. Even were plaintiff's grant application still under study, however, there would be more than a merely speculative injury; for as affidavits filed by both plaintiff and plaintiff-intervenor indicate, the reduction in allotments has resulted in serious planning delays that will necessarily retard the development of sewage treatment facilities. (Affidavit of Martin Lang, dated February 8, 1973, 111; affidavit of Gerald Remus, dated March 15, 1973, 112). The seriousness of the planning problem was understood by Congress. It was one of the reasons for utilizing the device of allotment, thereby making funds available for obligation, in lieu of the ordinary appropriations procedure.

Congressman William Harsha, one of the managers of the bill, observed during debate on a proposed amendment to H.R. 11896[8] which would have substituted the normal appropriations process for the allotment mechanism that "it is essential that the States, the interstate agencies and the cities have both the ability for and a basis for long-range planning, construction scheduling and financing waste treatment plants, including the sale of bonds that they have to sometimes negotiate." CONGRESSIONAL RECORD, vol. 118, pt. 9, pp. 10757–10758. When there is uncertainty concerning how much will be allotted in a given year, municipalities cannot properly plan the scale of projects for which to seek federal funding.

Still another way in which plaintiff is injured by the Administrator's refusal to allot the full amount of the sums authorized to be appropriated by § 207 lies in the permanent loss of funds not allotted at the appropriate time. Such funds cannot thereafter be made available for obligation even if grant applications which, in the Administrator's determination, meet all the requirements of the Act are submitted and the current allocations are insufficient to pay the authorized federal share.

Considering all of the ways in which plaintiff's interests are imminently threatened by the Administrator's action under challenge here, it seems clear that there exists an injury sufficiently concrete to create a real controversy in which plaintiff has a genuine stake; and in ruling on the legality of the Administrator's action alleged to be the cause of this injury, the Court is not rendering a mere advisory opinion.

Defendant's other ground for urging the Court to find the subject matter of this action nonjusticiable is the contention that the matter at issue is a "political question" which the Court is barred from considering by reason of the doctrine of separation of powers. Certainly it is true that this Court could not decide a case if it presented a political question. *Powell v. McCormack*, 395

U.S. 486, 518 (1969); *Coleman v. Miller*, 307 U.S. 433 (1939). Criteria to be used in determining whether a political question is presented have been set forth by the Supreme Court in *Baker v. Carr*, 369 U.S. 186, 217 (1962). There Mr. Justice Brennan, writing for the majority, declared:

"Prominent on the surface of any case held to involve a political question is found 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."

The Administrator contends that at least two of the considerations listed by Mr. Justice Brennan are applicable to the instant case, namely, (1) something "very close" to a "textually demonstrable" commitment of power to control spending in the grant of executive power in Article II of the Constitution; and (2) a "lack of judicially discoverable and manageable standards for resolving" the question whether particular expenditures should be made. Even assuming arguendo that the Constitution gives to the President and his subordinates unreviewable authority to determine whether particular expenditures authorized by Congress should be made at a particular time, it is clear that the instant case presents none of the problems cited by the defendant. Counsel's position on this point must fail simply because he has not correctly characterized the issue before the Court. The Court is not being called on to determine whether the Administrator should spend any given amount of money for sewage treatment works. Rather the Court is being asked by plaintiff to require the Administrator to perform what it alleges to be a purely ministerial duty under the Act, that of allotting—and thus making available for obligation—the sums authorized to be appropriated in Section 207 of the Act.[9] There is no "textually demonstrable constitutional commitment" of this responsibility to the executive branch, and there is no difficulty in discovering standards for resolving the issue before the Court. Either the Administrator is required by the Act to allot the full amount of the sums authorized to be appropriated in § 207 or he is not so bound.

The Court is not overstepping its authority in deciding this question, for as our Court of Appeals recently declared: "In our overall pattern of government, the judicial branch has the function of requiring the executive (or administrative) branch to stay within the limits prescribed by the legislative branch." *National Automatic Laundry and Cleaning Council* v. *Schultz*, 143 U.S. App. D.C. 274, 280, 443 F.2d 689, 695 (1971). Even more recently, the Eighth Circuit Court of Appeals, citing *inter alia* the opinion in *National Automatic Laundry* determined that a challenge to the legality of a decision by the Secretary of Transportation to defer obligation of funds already apportioned to the State of Missouri under the Federal-Aid Highway Act of 1956, as amended, 23 U.S.C. § 101 *et seq.* (1970), presented a justiciable issue. The question was whether the Secretary had any discretion at all so to act. *The State Highway Commission of Missouri* v. *Volpe*, Civil No. 72-1512 (8th Cir., April 2, 1973).

It seems clear, then, that for the reasons given and on the basis of the authorities cited, this Court is not barred from reaching the merits of this case either by the doctrine of sovereign immunity or by a lack of a justiciable case or controversy. *Hence, it is appropriate now to proceed to the question raised in plaintiff's summary judgment motion, i.e., whether the Administrator had discretion to refuse to allot the sums authorized to be appropriated in § 207 of the Act, or—put the other way around—whether allotment of those sums is a purely ministerial act. The Court may resolve this question on summary judgment because the defendant, in his Statement submitted pursuant to Local Rule 9(h), has not set forth any specific facts showing that there is a genuine issue for trial. See* Rule 56(e), F. R. Civ. P.

Resolution of the issue whether the Administrator is required under the Act to make the allotments in question here turns primarily on the meaning of § 205(a) and § 207 of the Act, which read as follows:

"ALLOTMENT

"SEC. 205. (a) Sums authorized to be appropriated pursuant to section 207 for each fiscal year beginning after June 30, 1972, shall be allotted by the Administrator not later than the January 1st immediately preceding the beginning of the fiscal year for which authorized, except that the allotment for fiscal year 1973 shall be made not later than 30 days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. Such sums shall be allotted among the States by the Administrator in accordance with regulations promulgated by him, in the ratio that the estimated cost of constructing all needed publicly owned treatment works in each State bears to the estimated cost of construction of all needed publicly owned treatment works in all of the States. For the fiscal years ending June 30, 1973, and June 30, 1974, such ratio shall be determined on the basis of table III of House Public Works Committee Print No. 92-50. Allotments for fiscal years which begin after the fiscal year ending June 30, 1974, shall be made only in accordance with a revised cost estimate made and submitted to Congress in accordance with section 516(b) of this Act and only after such revised cost estimate shall have been approved by law specifically enacted hereafter.

"AUTHORIZATION

"SEC. 207. There is authorized to be appropriated to carry out this title, other than sections 208 and 209, for the fiscal year ending June 30, 1973, not to exceed $5,000,000,000, for the fiscal year ending June 30, 1974, not to exceed $6,000,000,000, and for the fiscal year ending June 30, 1975, not to exceed $7,000,000,000."

In urging its interpretation of these sections, plaintiff places emphasis on the phrase "shall be allotted" in § 205(a), contending that the use of "shall" rather than "may" makes plain the mandatory character of this section. The Administrator defends his interpretation (namely, that he has discretion to decide how much to allot) primarily on the grounds that H.R. 11896, the bill from which § 205 and § 207 of the Act are derived, was amended in conference by the insertion of the phrase "not to exceed" before each of the sums specified in § 207 and by the deletion of the word "all" before the phrase "Sums authorized to be appropriated" in § 205(a); both amendments, it is contended, are substantive changes meant to give the Administrator the discretion to withhold allotments as he has done. Given the arguments of the parties, a "plain meaning" analysis is obviously inadequate to the task at hand. Rather, the Court must examine the relevant legislative history to determine whether Congress intended to give the Administrator the kind of discretion he claims to have under the Act. *The Wilderness Society v. Morton*, Nos. 72-1796, 1797, 1798 (U.S.App.D.C., February 9, 1973), slip op. at 22.

Of particular importance are the views of sponsors of the legislation in question. See, e.g., *First National Bank of Logan, Utah* v. *Walker Bank and Trust Co.*, 385 U.S. 252, 261 (1966); *Schwegmann Bros.* v. *Calvert Distillers Corp.*, 341 U.S. 384, 395-95 (1951); *Kansas City, Mo.* v. *Federal Pacific Electric Co.*, 310 F.2d 271, (8th Cir. 1962), *cert. denied*, 371 U.S. 912, and 373 U.S. 914. *Specifically, the Court can properly look to the expressed views of Congressman William Harsha, who is the ranking minority member of the House Committee on Public Work, which reported H.R. 11896, and who was also the bill's floor manager and a member of the conference committee which worked out the final language of the Act, and the views of Senator Edmund Muskie, who is Chairman of the Senate Subcommittee on Air and Water Pollution, which reported the Senate version, S. 2770, and who was floor manager of that bill and a member of the conference committee. It was Congresman Harsha who sponsored the amendments on which the Administrator relies.*

An examination of pertinent portions of congresional debates quoted by both plaintiff and defendant reveals that *Congressman Harsha intended his amendments not to make any substantive change in the bill but rather to clarify* (or "emphasize," to use his own term) the point that the Administrator was to have discretion regarding the *obligation and expenditure* of funds authorized to be appropriated under the Act. Thus, in explaining his amendments, Congressman Harsha said: "I want to point out that the elimination *of the word* 'all' before the word 'sums' in section 205(a) and insertion of the phrase 'not to exceed' in section 207 was intended by the managers of the bill to emphasize the President's flexibility to control the *rate of spending.*" CONGRESSIONAL RECORD, volume 118 part 25, page 33754 (emphasis added). Moreover, it is clear from an exchange of remarks by Congressman Robert Jones of Alabama, Chairman of the conference committee, Congressman Gerald Ford of Michigan, and Congressman Harsha, that this intent was made known to the House, which later voted in favor of the legislation as amended. That exchange is recorded as follows:

"Mr. GERALD R. FORD. Mr. Speaker . . . I think it is vitally important that the intent and purpose of section 207 is spelled out in the legislative history here in the discussion on this conference report.

"As I understand the comments of the gentleman from Ohio [Harsha], the inclusion of the words in section 207 in three instances of "not to exceed" indicates that is a limitation. More importantly that it is not a mandatory requirement that in 1 year ending June 30, 1973, there would be $5 billion and the next year ending June 30, 1974, $6 billion and a third year ending June 30, 1975, $7 billion *obligation or expenditure?*

"Mr. HARSHA. I do not see how reasonable minds could come to any other conclusion than that *the language means we can obligate or expend up to that sum*—any thing up to that sum but not to exceed that amount. * * *

"Mr. GERALD R. FORD. Mr. Speaker, I would like to ask the distinguished chairman of the House conferees whether he agrees with the gentleman from Ohio (Mr. HARSHA).

"Mr. JONES of Alabama. . . . My answer is "yes." Not only do I agree with him, but the gentleman from Ohio offered this amendment which we have now under discussion in the committee of conference, so there is no doubt in anybody's mind of the intent of the language. It is reflected in the language just explained by the gentleman from Ohio (Mr. HARSHA).

"Mr. GERALD R. FORD. Mr. Speaker, this clarifies and certainly ought to wipe away any doubts anyone has. *The language is not a mandatory requirement for full obligation and expenditure up to the authorization figure in each of the 3 fiscal years.*" *Id.*, at page 33755 (emphasis added).

Footnotes at end of article.

The Administrator is not supported in his interpretation of the Act's legislative history by citing remarks of Congressman Harsha concerning authority for Executive "impoundment" of funds. During the debates on H.R. 11896, Congressman Harsha took note of recent impoundments by the Executive branch of moneys allocated among the States under the Federal-Aid Highway Act of 1956, and made the following observation:

"[T]he Committee on Public Works is acutely aware that moneys from the highway trust fund have been impounded by the Executive. Expenditures from the highway trust fund are made in accordance with similar contract authority provisions to those in this bill. Obviously *expenditures and appropriations* in the water pollution control bill could also be controlled. However, there is even more flexibility in this water pollution control bill because we have added "not to exceed" in section 207, as I indicated before.

"Surely, if the administration can impound moneys from the highway trust fund which does not have the flexibility of the language of the water pollution control bill, it can just as rightly *control expenditures from the contract authority produced in this legislation by that same means." Id.*, at page 33754 (emphasis added).

The impoundments of Federal-Aid Highway Act moneys referred to by Congressman Harsha were of funds already allotted, i.e., the controls were being exercised at the obligation level rather than at the allotment level.[10] Thus, these comments tend to support the position of the plaintiff rather than that of the defendant in regard to which administrative functions are discretionary and which are mandatory under the Act which this Court is called on to construe. It seems obvious from the remarks just quoted that, as Senator Muskie observed:

"Under the amendments proposed by Congressman WILLIAM HARSHA and others the *authorizations for obligational authority* are "not to exceed" $18 billion over the next 3 years. Also, 'all' sums authorized to be obligated need not be committed, though they must be allocated. These two provisions were suggested to give the Administration some flexibility concerning the obligation of construction grant funds." *Id.*, at page 33694 (emphasis added).

The President appears to have concurred in the views of the sponsors concerning § 205 and § 207 of the Act, for in his message explaining his veto of the bill, he stated:

"Certain provisions of . . . [the bill] confer a measure of *spending discretion and flexibility* upon the President, and if forced to administer this legislation I mean to use those provisions to put the brakes on budget-wrecking expenditures as much as possible.

"But the law would still exact an unfair and unnecessary price from the public. For I am convinced . . . that the pressure for full funding under this bill would be so intense that funds approaching the *maximum authorized* amount could ultimately be claimed and paid out, no matter what technical controls the bill appears to grant the Executive." CONGRESSIONAL RECORD, volume 118, part 28, page 37055 (emphasis added).

In other words, the President believed that the Act required the Administrator to allot the full amount authorized, and he feared that once the Administrator had made the allotments, he might be under great pressure to approve grant applications up to the amount of the allotments. Congress, believing that the needs to which the Act was addressed were sufficiently urgent that expenditure of the full amounts authorized might be necessary,[11] and believing further that the Administrator was given sufficient discretion to avoid any hasty and improvident obligation of funds, passed the bill over the President's veto.

The question whether the entire amount should be *obligated* is, of course, not before this Court. The only question is whether the full allotments must be made, and the answer to that on the basis of the foregoing review of the sponsors' comments seems clear. The language of the pertinent sections of the Act, read in the light of their legislative history, clearly indicates the intent of Congress to require the Administrator to allot, at the appropriate times, the full sums authorized to be appropriated by § 207.[12] Hence, this Court has no choice other than to declare that § 205(a) of the Act requires the Administrator to allot among the states $5 billion for fiscal year 1973 and $6 billion for fiscal year 1974.

The only question remaining for decision is whether plaintiff's action may be maintained as a class action on behalf of all similarly situated municipalities within the State of New York. Defendant has opposed maintenance of this suit as a class action solely on the ground that plaintiff does not satisfy subsection (a)(3) and (a)(4) of Rule 23, Fed. R. Civ. P., i.e., it is contended that plaintiff's claim is not typical of those of the proposed class members and that plaintiff cannot adequately represent the class. The Court does not find these points well taken. Differences in amounts which various municipalities might receive from the State allotment have no bearing on the legal issue of whether the allotment as a whole should be increased. Neither can such differences make the City of New York something less than an adequate representative of the class as required by Rule 23(a)(4). Competition for shares of a common fund does not bar a class action on behalf of all competitors when the relief sought would lead to an increase in the total amount of that fund. *Berman* v. *Narragansett Racing Association*, 414 F.2d 311, 317 (1st Cir. 1969), *cert. denied*, 396 U.S. 1037 (1970). The Court finds that plaintiff satisfies all the requirements of Rule 23(a) and 23(b)(1)(A), (b)(1)(B), and (b)2; accordingly, the suit can be maintained on behalf of the proposed class.

OLIVER GASCH, *Judge*.

Date May 8, 1973.

FOOTNOTES

[1] This action was originally brought against William D. Ruckelshaus, who was serving as Administrator at that time. During the pendency of the action, Mr. Ruckelshaus resigned and his successor has not yet been appointed and confirmed. By operation of Rule 25(d), Fed. R. Civ. P., the Acting Administrator is automatically substituted as the defendant. The action continues unabated unless the new Administrator comes forward with evidence showing such a discontinuance of his predecessor's policy as to make the action moot. See Rule 25(d), 1961 Notes of the Advisory Committee on Rules; 3B J. Moore, Federal Practice, § 25.09 [3], at 25–402 (2d ed. 1969). Since no such showing has made in the instant case, the actions of Mr. Ruskelshaus are chargeable to the Acting Administrator for purposes of this action, and the Court's order is binding upon the Acting Administrator and his successors in office.

[2] 37 Fed. Reg. 26282, § 35,910–1(a) (1972.

[3] The contentions of the plaintiff-intervenor are substantially the same as those made by the plaintiff. In the interest of brevity, references throughout will be solely to the plaintiff unless the context requires otherwise.

[4] According to § 205(a) sums are to be allotted among the States "in the ratio that the estimated cost of constructing all needed publicly owned treatment works in each State bears to the estimated cost of construction of all needed publicly owned treatment works in all of the States." Congress has supplied the figures for determining the ratios to be used for the fiscal years ending June 30, 1973, and June 30, 1974. (Table III of House Public Works Committee Print No. 92–50). For subsequent fiscal years, the allotments are to be made in accordance with a revised cost estimate submitted by the Administrator to Congress and "approved by law specifically enacted hereafter."

[5] Section 202(a) sets the federal share of the cost of construction of projects, as approved by the Administrator, at 75 percent. Section 203 of the Act specifies that the Administrator's approval creates contractual obligations on the part of the United States.

[6] It should be noted that these same contentions were made recently in motions to dismiss by the defendant in three consolidated civil actions before Judge Jones of this Court. *Local 2677, American Federation of Government Employees* v. *Phillips*, Civil Action Nos. 371–73, 375–73, and 379–73 (D.D.C., April 11, 1973). In those suits, as in the instant case, plaintiffs were challenging the actions of a federal officer on the ground that they were in violation of his statutory authority; Judge Jones rejected the defendant's contentions and proceeded to the merits of the case.

[7] Attached as Exhibit "B" to the affidavit is a copy of a letter dated March 1, 1973, from Gerald M. Hansler, Regional Administrator, EPA, announcing approval of the plaintiff's grant application for the two projects.

[8] H.R. 11896 was the House version of the bill later enacted as P.L. 92–500, 86 Stat. 816, the provisions of which are disputed in the instant case.

[9] For this reason the instant case is distinguishable from *Housing Authority of San Francisco v. U.S. Department of Housing and Urban Development*, 340 F. Supp. 654 (N.D. Cal. 1972), cited by the Administrator. In *Housing Authority* the Court found the issue presented to be nonjusticiable because it found in the statute in question a legislative "intention of allowing spending discretion in the executive" and "no manageable standards for determining whether the discretion had been abused." 340 F. Supp. at 656.

[10] It should be noted that the Court of Appeals for the Eighth Circuit has construed the Federal-Aid Highway Act as requiring obligation of allotted funds, and has thus declared the impoundments referred to by Congressman Harsha to be illegal *State Highway Commission of Missouri v. Volpe*, — F. 2d —, Civil No. 72–1512 (8th Cir., April 2, 1973).

[11] The central purpose of the Act as set forth in the first section is to effectuate "the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985." § 101(a)(1). Congressman Harsha recognized that achieving this goal might well require spending the entire $18 billion authorized to be appropriated; and he observed: "To say we can't afford this sum of money is to say we can't afford to support life on earth." CONGRESSIONAL RECORD, vol. 118, pt. 28, p. 37056.

[12] As previous discussion has indicated, pp. 10–12, *supra*, this construction of the Act does not infringe upon any prerogative of the Executive branch. The Court is thus not confronting any delicate constitutional question of the kind which Mr. Justice Brandeis, in *Ashwander v. Tennessee Valley Authority*, 297 U.S. 288, 345–48 (1936), counseled courts to avoid. Hence defendant's reliance on *Ashwander* as authority for the proposition that the Act should be construed so as to enhance his powers at the expense of those of the Congress is not well taken.

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the REA Conference Report, S. 394, with the vote to occur on that conference report at 11:45 a.m.

The Senator from South Dakota will submit the report.

## RURAL ELECTRIFICATION FINANCING—CONFERENCE REPORT

Mr. McGOVERN. Mr. President, I submit a report of the committee of conference on S. 394, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 394) to amend the Rural Electrification Act of 1936, as amended, to reaffirm that such funds made available for each fiscal year to carry out the programs provided for in such Act be fully obligated in said year, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The ACTING PRESIDENT pro tempore. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 394) an Act to amend the Rural Electrification Act of 1936, as amended, to reaffirm that such funds made available for each fiscal year to carry out the programs provided for in such Act be fully obligated in said year, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That it is hereby declared to be the policy of the Congress that adequate funds should be made available to rural electric and telephone systems through direct, insured and guaranteed loans at interest rates which will allow them to achieve the objectives of the Rural Electrification Act of 1936, as amended, and that such rural electric and telephone systems should be encouraged and assisted to develop their resources and ability to achieve the financial strength needed to enable them to satisfy their credit needs from their own financial organizations and other sources at reasonable rates and terms consistent with the loan applicant's ability to pay and achievement of the Act's objectives. The Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), is therefore further amended as hereinafter provided.

SEC. 2. Title III of the Rural Electrification Act of 1936, as amended, is amended by striking out all of sections 301 and 302 and inserting in lieu thereof the following new sections:

"SEC. 301. RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND.—(a) There is hereby established in the Treasury of the United States a fund, to be known as the Rural Electrification and Telephone Revolving Fund (hereinafter referred to as the "fund"), consisting of:

"(1) all notes, bonds, obligations, liens, mortgages, and property delivered or assigned to the Administrator pursuant to loans heretofore or hereafter made under sections 4, 5, and 201 of this Act and under this title, as of the effective date of this title, as revised herein, and all proceeds from the sales hereunder of such notes, bonds, obligations, liens, mortgages, and property, which shall be transferred to and be assets of the fund;

"(2) undisbursed balances of electric and telephone loans made under sections 4, 5, and 201, which as of the effective date of this title, as revised herein, shall be transferred to and be assets of the fund;

"(3) notwithstanding section 3(a) of title I, all collections of principal and interest received on and after July 1, 1972, on notes, bonds, judgments, or other obligations made or held under titles I and II of this Act and under this title, except for net collection proceeds previously appropriated for the purchase of class A stock in the Rural Telephone Bank, which shall be paid into and be assets of the fund;

"(4) all appropriations for interest subsidies and losses required under this title which may hereafter be made by the Congress;

"(5) moneys borrowed from the Secretary of the Treasury pursuant to section 304(a); and

"(6) shares of the capital stock of the Rural Telephone Bank purchased by the United States pursuant to section 406(a) of this Act and moneys received from said bank upon retirement of said shares of stock in accordance with the provisions of title IV of this Act, which said shares and moneys shall be assets of the fund.

"SEC. 302. LIABILITIES AND USES OF FUND.—(a) The notes of the Administrator to the Secretary of the Treasury to obtain funds for loans under sections 4, 5, and 201 of this Act, and all other liabilities against the appropriations or assets in the fund in connection with electrification and telephone loan operations shall be liabilities of the fund, and all other obligations against such appropriations or assets in the fund arising out of electrification and telephone loan operations shall be obligations of the fund.

"(b) The assets of the fund shall be available only for the following purposes:

"(1) loans which could be insured under this title, and for advances in connection with such loans and loans previously made, as of the effective date of this title, as revised herein, under sections 4, 5, and 201 of this Act;

"(2) payment of principal when due (without interest) on outstanding loans to the Administrator from the Secretary of the Treasury for electrification and telephone purposes pursuant to section 3(a) of this Act and payment of principal and interest when due on loans to the Administrator from the Secretary of the Treasury pursuant to section 304(a) of this title;

"(3) payment of amounts to which the holder of notes is entitled on insured loans: *Provided*, That payments other than final payments need not be remitted to the holder until due or until the next agreed annual, semiannual, or quarterly remittance date;

"(4) payment to the holder of insured notes of any defaulted installment or, upon assignment of the note to the Administrator at his request, the entire balance due on the note;

"(5) purchase of notes in accordance with contracts of insurance entered into by the Administrator;

"(6) payment in compliance with contracts of guarantee;

"(7) payment of taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application, and transmittal of collections or necessary to obtain credit reports on applicants or borrowers, expenses for necessary services, including construction inspections, commercial appraisals, loan servicing, consulting business advisory or other commercial and technical services, and other program services, and other expenses and advances authorized in section 7 of this Act in connection with insured loans. Such items may be paid in connection with guaranteed loans after or in connection with the acquisition of such loans or security thereof after default, to the extent determined to be necessary to protect the interest of the Government, or in connection with any other activity authorized in this Act;

"(8) payment of the purchase price and any costs and expenses incurred in connection with the purchase, acquisition, or operation of property pursuant to section 7 of this Act.

"SEC. 303. DEPOSIT OF FUND MONEYS.—Moneys in the fund shall remain on deposit in the Treasury of the United States until disbursed.

"SEC. 304. FINANCIAL TRANSACTIONS OF THE FUND.—(a) The Administrator is authorized to make and issue interim notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations of the fund and for making loans, advances and authorized expenditures out of the fund. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be agreed upon by the Administrator and the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the notes issued by the Administrator under this section. The Secretary of the Treasury is authorized and directed to purchase any notes of the Administrator issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which such securities may be issued under such Act, as amended, are extended to include the purchase of notes issued by the Administrator. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States: *Provided, however*, That such interim notes to the Secretary of the Treasury shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

"(b) The Secretary of the Treasury is authorized and directed to purchase for resale obligations insured through the fund when offered by the Administrator. Such resales shall be upon such terms and conditions as the Secretary of the Treasury shall determine. Purchases and resales by the Secretary of the Treasury hereunder shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

"(c) The Administrator may, on an insured basis or otherwise, sell and assign any notes in the fund or sell certificates of beneficial ownership therein to the Secretary of the Treasury or in the private market. Any sale by the Administrator of notes individually or in blocks shall be treated as a sale of assets for the purposes of the Budget and Accounting Act, 1921, notwithstanding the fact that the Administrator, under an agreement with the purchaser or purchasers, holds the debt instruments evidencing the loans and holds or reinvests payments thereon as trustee and custodian for the purchaser or purchasers of the individual note or of the certificate of beneficial ownership in a number of such notes. Security instruments taken by the Administrator in connection with any notes in the fund may constitute liens running to the United States notwithstanding the fact that such notes may be thereafter held by purchasers thereof.

"SEC. 305. INSURED LOANS; INTEREST RATES AND LENDING LEVELS.—(a) The Administrator is authorized to make insured loans under this title and at the interest rates hereinafter provided to the full extent of the assets available in the fund, subject only to limitations as to amounts authorized for loans and advances as may be from time to time imposed by the Congress of the United States for loans to be made in any one year, which amounts shall remain available until expanded: *Provided,* That the Congress in the annual appropriation act may also authorize the transfer of any excess cash in the fund for deposit into the Treasury as miscellaneous receipts: and *Provided further,* That any such loans and advances shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and not lending (budget outlays) of the United States.

"(b) Insured loans made under this title shall bear interest at either 2 per centum per annum (hereinafter called the 'special rate'), or 5 per centum per annum (hereinafter called the 'standard rate'). Loans bearing the special rate shall be available only for an electric or telephone borrower which meets either of the following conditions:

"(1) has an average consumer or subscriber density of two or fewer per mile, or

"(2) has an average gross revenue per mile which is at least $450 below the average gross revenue per mile of REA-financed electric systems, in the case of electric borrowers, or at least $300 below the average gross revenue per mile of REA-financed telephone systems, in the case of telephone borrowers: *Provided, however,* That the Administrator may, in his sole discretion, make a loan at the special rate if he finds that the borrower:

"(A) has experienced extenuating circumstances or extreme hardships; or

"(B) cannot, in accordance with generally accepted management and accounting principles, produce net income or margins before interest at least equal to 150 per centum of its total interest requirements on all outstanding and proposed loans with an interest rate greater than 2 per centum per annum on the entire current loan, and still meet the objectives of the Act, or

"(C) cannot, in accordance with generally accepted management and accounting principles and without an excessive increase in the rates charged by such borrowers to their consumers or subscribers, provide service consistent with the objectives of the Act.

"(c) Loans made under this section shall be insured by the Administrator when purchased by a lender. As used in this Act, an insured loan is one which is made, held, and serviced by the Administrator, and sold and insured by the Administrator hereunder; such loans shall be sold and insured by the Administrator without undue delay.

"SEC. 306. GUARANTEED LOANS; ACCOMMODATION AND SUBORDINATION OF LIENS.—The Administrator may provide financial assistance to borrowers for purposes provided in the Rural Electrification Act of 1936, as amended, by guaranteeing loans, in the full amount thereof, made by the Rural Telephone Bank, National Rural Utilities Cooperative Finance Corporation, and any other legally organized lending agency, or by accommodating or subordinating liens or mortgages in the fund held by the Administrator as owner or as trustee or custodian for purchases of notes from the fund, or by any combination of such guarantee, accommodation, or subordination. No fees or charges shall be assessed for any such guarantee, accommodation, or subordination. Guaranteed loans shall bear interest at the rate agreed upon by the borrower and the lender. Guaranteed loans, and accommodation and subordination of liens or mortgages, may be made concurrently with a loan insured at the standard rate. The amount of guaranteed loans shall be subject only to such limitations as to amounts as may be authorized from time to time by the Congress of the United States: *Provided,* That any amounts guaranteed hereunder shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States. As used in this title a guaranteed loan is one which is made, held, and serviced by a legally organized lending agency and which is guaranteed by the Administrator hereunder.

"SEC. 307. OTHER FINANCING.—When it appears to the Administrator that the loan applicant is able to obtain a loan for part of his credit needs from a responsible cooperative or other credit source at reasonable rates and terms consistent with the loan applicant's ability to pay and the achievement of the Act's objectives, he may request the loan applicant to apply for and accept such a loan concurrently with a loan insured at the standard rate, subject, however, to full use being made by the Administrator of the funds made available hereunder for such insured loans under this title.

"SEC. 308. FULL FAITH AND CREDIT OF THE UNITED STATES.—Any contract of insurance or guarantee executed by the Administrator under this title shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder has actual knowledge.

"SEC. 309. LOAN TERMS AND CONDITIONS.—Loans made from or insured through the fund shall be for the same purposes and on the same terms and conditions as are provided for loans in titles I and II of this Act except as otherwise provided in sections 303 to 308 inclusive.

"SEC. 310. REFINANCING OF RURAL DEVELOPMENT ACT LOANS.—At the request of the borrower, the Administrator is authorized and directed to refinance with loans which will be insured under this Act at the interest rates provided in section 305 any loans made for rural electric and telephone facilities under any provision of the Consolidated Farm and Rural Development Act."

SEC. 3. Section 3(f) of the Rural Electrification Act of 1936, as amended, is repealed.

SEC. 4. Section 405 of the Rural Electrification Act of 1936, as amended, is further amended by striking subsection (e) in its entirety and by inserting in lieu thereof a new subsection (e), as follows:

"(e) Thereafter, the cooperative-type entities and organizations holding class B and class C stock, voting as a separate class, shall elect three directors to represent their class by a majority vote of the stockholders voting in such class; and the commercial-type entities and organizations holding class B and class C stock, voting as a separate class, shall elect three directors to represent their class by a majority vote of the stockholders voting in such class. Limited proxy voting may be permitted, as authorized by the bylaws of the telephone bank. Cumulative voting shall not be permitted."

SEC. 5. The second sentence of section 406(a) of the Rural Electrification Act of 1936, as amended, is further amended by striking "from net collection proceeds in the rural telephone account created under title III of this Act" immediately after the word "appropriated".

SEC. 6. Subsection (a) of section 407 of the Rural Electrification Act of 1936, as amended, is amended by striking out "eight" in the second sentence and inserting in lieu thereof "twenty", and by striking out all of the third sentence.

SEC. 7. Section 407 of the Rural Electrification Act of 1936, as amended, is amended by adding a new subsection (c) as follows:

"(c) Purchases and resales by the Secretary of the Treasury as authorized in subsection (b) of this section shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States."

SEC. 8. Subsection (a) of section 408 of the Rural Electrification Act of 1936, as amended, is amended (a) by inserting the words "or which have been certified by the Administrator to be eligible for such a loan or loan commitment," immediately following the term "this Act," where it first appears; and (b) by adding at the end thereof the following sentence: "Loans and advances made under this section shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States."

SEC. 9. Subsection (b) of section 408 of the Rural Electrification Act of 1936, as amended, is amended by striking out all of paragraph (3) and inserting in lieu thereof a new paragraph (3) reading:

"(3) Loans under this section shall bear interest at the 'cost of money rate.' The cost of money rate is defined as the average cost of moneys to the telephone bank as determined by the Governor, but not less than 5 per centum per annum."

SEC. 10. No funds provided under the Rural Electrification Act of 1936, as amended, shall be used outside the United States or any of its territories.

SEC. 11. The right to repeal, alter, or amend this Act is expressly reserved.

SEC. 12. This Act shall take effect upon enactment.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

GEORGE MCGOVERN,
JAMES B. ALLEN,
HUBERT H. HUMPHREY,
GEO. D. AIKEN,
ROBERT DOLE,
*Managers on the Part of the Senate.*

W. R. POAGE,
FRANK A. STUBBLEFIELD,
BERNIE SISK,
FRANK E. DENHOLM,
CHARLES M. TEAGUE,
WILLIAM C. WAMPLER,
GEORGE A. GOODLING,
*Managers on the Part of the House.*

Mr. McGOVERN. Mr. President, I ask unanimous consent that the printing of the report as a Senate report be waived.

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

Mr. McGOVERN. Mr. President, both the Senate bill and the House amendment had a common objective, to restore the rural electric and telephone programs to operation. Their approach to this objective, however, differed in many respects, and I ask unanimous consent to insert a list of those differences in the RECORD at this point.

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

DIFFERENCES BETWEEN S. 394, AS PASSED BY THE SENATE, AND THE HOUSE AMENDMENT THERETO

*The Senate* bill requires that REA direct rural electric and telephone loans be made in the full amount appropriated therefor.

*The House amendment*—

(1) creates a revolving fund with unlimited borrowing authority, and requires insured rural electric and telephone loans to be made and sold to the full extent of the assets in the fund, subject only to limitations imposed by Congress;

(2) provides that such insured loans will bear interest at five percent or at two percent if the borrower—

(A) has an average subscriber density of two or fewer per mile; or

(B) has an average gross revenue of at least $450 below the average (for electric borrowers) or $300 below the average (for telephone borrowers); or

(C) has experienced extenuating circumstances or severe hardship; or

(D) cannot produce net income before interest of at at least 150 percent of its total interest requirements and still meet the objectives of the Act; or

(E) cannot without an excessive rate increase provide service consistent with the Act. (Note: The amendment specifically conditions (C), (D), and (E) on the "sole discretion of the Administrator".)

(3) authorizes the guarantee of rural electric and telephone loans made by other lenders;

(4) forgives interest on REA borrowings from the Treasury under section 3(a) of the Rural Electrification Act of 1936;

(5) provides for separate elections by commercial and cooperative stockholders of Telephone Bank of three directors by each group and prohibits cumulative voting in such elections (as currently prohibited by by-laws);

(6) raises limit on telephone debentures to twenty (instead of eight) times paid-in-capital and retained earnings;

(7) provides for appropriation from the Treasury general fund (instead of the Rural Telephone Account) of capital for the Rural Telephone Bank;

(8) authorizes Telephone Bank loans to applicants who have not previously borrowed from REA;

(9) provides that Telephone Bank loans shall bear interest at the cost of money to the bank, but not less than five percent (in lieu of a range of rates based on ability to pay).

(10) prohibits the use outside the United States of funds provided under the Rural Electrification Act of 1936;

(11) repeals the requirement that telephone debentures contain a disclaimer of federal guarantee; and

(12) provides that transactions in "interim notes" under section 304(a), insured obligations under section 304(b), loans and advances under section 305(a), and guaranteed loans under section 306 "shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States."

Mr. McGOVERN. Mr. President, the conference substitute generally follows the House amendment; but differs from it in one major respect, and that is that the mandatory language of section 305 directing the Secretary to make loans was removed. This was done upon the assurance of the Secretary of Agriculture, speaking for the administration, that during each of the next 3 years an REA program at levels not less than budgeted for fiscal year 1974 will be operated under the provisions of this bill, and that not less than $105 million—$80 million for the electric program and $25 million for the telephone program—will be made available at the 2-percent rate. I ask unanimous consent that the letter of the Secretary of Agriculture be inserted in the RECORD at this point.

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

DEPARTMENT OF AGRICULTURE,
*Washington, D.C., May 8, 1973.*

Hon. W. R. POAGE,
*Chairman, House Committee on Agriculture, Washington, D.C.*

DEAR BOB: I am pleased to provide you and the members of the conference committee the Administration's position on the REA financing bill now in conference, S. 394. As I told you during our meeting in your office last Thursday, speaking for the Administration, we can assure you that during each of the next three years an REA program at levels not less than budgeted for Fiscal Year 1974 will be operated through the REA under the authority of S. 394 as finally passed and that not less than $105 million—$80 million for the electric program and $25 million for the telephone loan program (of new loans)—will be made available at the 2% rate.

This commitment is conditioned on but one cardinal principle—mandatory language relating to criteria in Section 305 be stricken from the legislation. Further, there will be no legislative direction with respect to hardship cases beyond the criteria set forth in the House-passed bill. As you know, the Secretary would, of course, have authority to exceed this minimum level for 2% loans.

On behalf of the Administration and every American, I want to thank you and the conferees for your efforts to achieve constructive legislation which will ensure a viable rural electric and telephone system.

Sincerely,

EARL L. BUTZ,
*Secretary.*

Mr. McGOVERN. Mr. President, the program level budgeted for fiscal 1974 is $758 million, consisting of $618 million for electric loans and $140 million for telephone loans. Under the terms of the letter this would mean at least $105 million for loans at a 2-percent rate of interest, and at least a balance of $653 million for loans at 2 or 5 percent.

Mr. President, the important point to keep in mind on this conference is that the Senate conferees largely accepted the House bill with one change, that we drop the mandatory requirement that the administration especially objected to, and that has been replaced with the one to which I have referred.

I am convinced on the basis of conversations we had with the Secretary of Agriculture yesterday that this bill, if passed by the Senate and the House, will not be vetoed. I think it is the strongest possible rural electrification bill we can pass in the Senate that is veto-proof. It should have the support of the administration; every indication is that it does. I believe it provides a reasonable level of financing for both our rural electric system and our rural telephone systems. I am hopeful the conference report will be overwhelmingly adopted by the Senate and that action will follow in the other body very shortly.

Mr. DOLE. Mr. President, the distinguished Senator floor leader on our side, the Senator from Vermont (Mr. AIKEN), has authorized me to proceed.

I concur in the statements made by the distinguished Senator from South Dakota. I would also urge Senators to act favorably in considering the conference committee report on S. 394.

As a member of the conference, I can testify to the diligent efforts of every member of that conference, and I also would make special note in praise of the efforts of Secretary of Agriculture, Mr. Butz, and others on his staff for their efforts, flexibility, and reasonableness which brought about the agreement that I believe, as already indicated, has provided a good REA and RTA bill. It does provide for adequate funding. Certainly rural America needs this legislation. It provides the financial means to make power and communications available to our farmers and rural residents.

The conference report assures the continuation of loans on an insured and guaranteed basis through a special REA account in the Treasury. The majority of the loans made will be insured loans at 5-percent interest rate, or guaranteed loans at commercial rates of interest. A limited number of insured 2-percent loans will be made to REA's and rural telephone companies in sparsely populated areas or for extreme hardship circumstances.

This is an area in which there was considerable discussion, but in the end, because of the efforts of the conference and because of the willingness to cooperate by Secretary Butz, that matter was resolved, as pointed out by the Senator from South Dakota.

I would urge Senators to adopt the conference report. There never has been any doubt in my mind about the administration commitment to both REA and RTA.

I share the view expressed that this measure will not be vetoed. It meets the requirements of the administration. I believe, with the Secretary of Agriculture's strong endorsement, with the letter he willingly provided the committee, he indicates the commitment many of us hoped for.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. McGOVERN. Mr. President, I yield such time as he may require to the Senator from Alabama.

Mr. ALLEN. I thank the distinguished Senator.

Mr. President, as a member of the conference committee, I recommend to the Senate this report and its adoption by the Senate. I feel that this is an outstanding bill, a bill that will meet the needs of the REA program throughout the country. It is a 3-year authorization. It allows the Rural Electrification Co-ops to have long-range *plans.*

I want to commend the administration which, through Secretary of Agriculture, Mr. Butz, indicated from the very start a sincere desire to arrive at a sound solution of this matter. They cooperated in every way with the conference committee, and we have come up with an excellent bill, in my opinion.

Over a 3-year period, it authorizes a total of $758 million each year, divided $140 million for rural telephones and $618 million for electric co-ops.

Of the $618 million for electric co-ops each year, at least $80 million shall be at 2 percent, and of the $140 million for rural telephones each year, at least $25 million shall be at 2 percent.

This is a well-rounded program, a program that electric co-ops and electric telephone systems throughout the country can depend upon.

I think it is an excellent recognition of the role that the Rural Electrification Administration throughout the country and the rural telephone systems are playing. It evidences a sincere desire on the part of the administration to see that electricity is carried into all of our rural

areas and also that the rural areas of this country get the benefit of telephone systems.

I recommend the adoption of the conference report.

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

Mr. ALLEN. I yield.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. Who yields time?

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. PERCY. Mr. President, I am most pleased to vote in favor of the conference report on S. 394 this morning. The conferees are to be congratulated on coming up with this final version which should satisfy all parties involved.

The legislation recognizes the need for continuing financial assistance for rural electric and telephone cooperatives which is provided, but also recognizes the fact that the cost of money to the Government has gone up and those cooperatives that can afford to more fairly pay their own way should do so.

As provided in the conference report, $763 million will be made available for fiscal 1974 with the understanding from the Secretary of Agriculture that at least this amount would also be made available in fiscal 1975 and in fiscal 1976. This amount is broken down by providing $618 million for rural electric cooperatives and $145 million for rural telephone cooperatives; $80 million of the rural electric funds would still be available at 2 percent and $25 million of the rural telephone funds at 2 percent for those cooperatives in shakier financial condition. However, all other cooperatives would either get money at 5 percent or an insured loan at the cost of money.

I think this is a fair resolution of this problem. The funds needed will be provided but more on the ability-to-pay basis. I commend the conferees and I am pleased to vote for the conference report.

Mr. TOWER. Mr. President, I am pleased today to support the conference report on S. 394, a bill which I feel will provide an adequate rural electric and telephone program. My past experience with Texas cooperatives has illustrated the tremendous assistance provided to rural areas by such cooperatives. I am extremely pleased that it was possible to arrive at an effective program which is palatable to electric and telephone cooperatives as well as to those who administer the Rural Electric and Telephone Administration.

After the announcement of major procedural changes in December, I began looking into possible alternatives which would still provide money to those cooperatives who cannot afford to pay more than 2-percent interest. These cooperatives are primarily ones still serving truly rural areas which require many miles of line to serve a few customers. This report provides for these low interest loans. It also provides authority for insured and guaranteed loans under the Rural Electric Administration Act rather than the rural development legislation. While I strongly support the concepts of the Rural Development Act of 1972, I feel the problems facing electric cooperatives can best be solved by the original programs outlined in the REA Act.

Since the December announcement, representatives of Texas electric and telephone service companies have contacted me providing information concerning their desires for a workable program. I understand those needs and have supported a program much like the one we now have before us which provides needed funds for continued expansion of services at a smaller cost to the Federal Government.

Adequate capital, obviously, is the prime consideration if we are to continue the excellent record of service by these rural cooperatives. Legislation which provides adequately for the needs of all parties concerned is desirable in all programs, and generally results in more effective administration and more successful results in the long run. I commend the members of the Committees on Agriculture of the Senate and the House of Representatives, and those members of various cooperatives who have been so helpful and cooperative in working out a program which promises to become a major plus factor in the success of the rural electric program of the future.

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 11:45 having arrived, the Senate will proceed to vote on the conference report on S. 394. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. TUNNEY) is necessarily absent.

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 California (Mr. TUNNEY) and the Senator from Mississippi (Mr. STENNIS) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK) and the Senator from Arizona (Mr. GOLDWATER) are detained on official business.

The result was announced—yeas 93, nays 3, as follows:

[No. 124 Leg.]

YEAS—93

| | | |
|---|---|---|
| Abourezk | Buckley | Dole |
| Aiken | Burdick | Domenici |
| Allen | Byrd, Harry F., Jr. | Dominick |
| Baker | Byrd, Robert C. | Eagleton |
| Bartlett | Cannon | Eastland |
| Bayh | Chiles | Ervin |
| Beall | Church | Fannin |
| Bellmon | Clark | Fong |
| Bennett | Cook | Fulbright |
| Bentsen | Cotton | Gravel |
| Bible | Cranston | Griffin |
| Biden | Curtis | Gurney |
| Brooke | Dole | Hansen |
| Hart | Mathias | Randolph |
| Hartke | McClellan | Roth |
| Haskell | McClure | Saxbe |
| Hatfield | McGee | Schweiker |
| Hathaway | McGovern | Scott, Pa. |
| Helms | McIntyre | Scott, Va. |
| Hollings | Metcalf | Sparkman |
| Hruska | Mondale | Stafford |
| Huddleston | Montoya | Stevens |
| Hughes | Moss | Stevenson |
| Humphrey | Muskie | Symington |
| Inouye | Nelson | Taft |
| Jackson | Nunn | Talmadge |
| Javits | Packwood | Thurmond |
| Johnston | Pastore | Tower |
| Kennedy | Pearson | Williams |
| Long | Pell | Young |
| Magnuson | Percy | |
| Mansfield | Proxmire | |

NAYS—3

| | | |
|---|---|---|
| Case | Ribicoff | Weicker |

NOT VOTING—4

| | | |
|---|---|---|
| Brock | Stennis | Tunney |
| Goldwater | | |

So the conference report was agreed to.

## MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

## ANNUAL REPORT OF CIVIL SERVICE COMMISSION—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. NUNN) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Post Office and Civil Service. The message is as follows:

*To the Congress of the United States:*

I hereby transmit the Civil Service Commission's annual report for fiscal year 1972.

The past year was one of significant initiatives in the field of Federal personnel management. Persistent challenges such as simplifying the complexities of the appeals system and broadening the scope of labor-management bargaining were effectively addressed. The first full year of operations under the Intergovernmental Personnel Act showed impressive results, as State and local governments responded enthusiastically in working with Federal agencies to improve personnel resources. Substantial progress was also made in carrying out the Equal Employment Opportunity Act of 1972, strengthening our commitment to employment practices which are scrupulously fair to all our people.

We can be grateful for the cooperation from all sectors and levels of government which made this record possible. And we can be proud that Federal personnel management not only enables us to serve the public more effectively but also stands as a respected model for all employers.

RICHARD NIXON.

THE WHITE HOUSE, *May 9, 1973.*

## EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. NUNN) laid before the Senate messages from the President of the United States submitting sundry nomi-

nations, which were referred to the appropriate committees.

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

## VOTER REGISTRATION ACT

The PRESIDING OFFICER (Mr. NUNN). Under the previous order, the hour of 12 o'clock having arrived, the Senate will resume the consideration of the unfinished business, S. 352, which the clerk will state.

The assistant 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 PRESIDING OFFICER. Under the previous order, the hour allocated before the Senate proceeds to vote on the cloture motion will be equally divided and controlled by the Senator from Wyoming (Mr. McGEE) and the Senator from Hawaii (Mr. FONG).

Who yields time?

Mr. McGEE. Mr. President, I yield to the Senator from Ohio (Mr. TAFT) for a unanimous-consent request.

Mr. TAFT. Mr. President, I ask unanimous consent that the amendments, under my name, now at the desk, on S. 352, be considered as presented and read for the purposes of rule XXII.

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

Mr. McGEE. Mr. President, I now yield to the distinguished majority leader for 3 minutes and then to the Senator from Washington (Mr. JACKSON).

Mr. MANSFIELD. Mr. President, before the Senate votes a third time on a motion to invoke cloture on the pending voter registration proposal, I think it might be of benefit to all Senators to consider for a moment just what is here at stake. While it is true that the pending bill is fully in accord with the movement toward a broader based democracy, more secure civil liberty guarantees, and expanded enfranchisement that the Senate to its everlasting credit has led in recent years, it seems to me frivolous that those who oppose this measure would seek to refuse to consider its disposition unless two-thirds of the Senate agree.

Is this such an issue of enormous overriding importance that requires opponents to resort to unlimited debate as a means of denying the opportunity for the majority to work its will? I think not.

I have now listened to the debate for the past few weeks and am frank to say that I am simply at a loss to understand the opponents' fear with respect to this pending bill. What is to be feared, it is asked, by assuring to citizens the broadest possible opportunity to participate in the exercise of the most precious right a citizen has—the right to have his voice heard; the right to vote.

Certainly no Senator will say that he fears democracy. Why, then, should he fear a vote on this bill? It has been thoroughly considered, not only in committee, but here on the floor. Few proposals in my memory have been subjected to such protracted debate, to such close scrutiny, to such careful investigation. S. 352 has been the pending business of the Senate for a month. Clearly, every Senator has had the time and the opportunity to determine whether this bill does, indeed, serve to improve upon this Nation's practice of democracy.

If there is a problem of apathy abroad in our land—an apathy which causes millions of Americans to refrain from exercising their rights as Americans, does that constitute a reason for apathy here in the Senate of the United States? Is that reason for this body to shrug its collective shoulders and do nothing? I think not.

The role of the Senate is to lead. We have effectively exercised that role in the past. Let us do so now. I would ask Senators to join me in voting cloture on this issue today so that we might proceed to a vote on the merits of the bill itself.

I urge the Senate to say "no" to this resort to unlimited debate on this issue. If ever the demands forced upon us by rule XXII have been overdone, it has been with the extended debate on the voter registration bill.

Mr. McGEE. Mr. President, I now yield 4 minutes to the distinguished Senator from Washington (Mr. JACKSON).

Mr. JACKSON. Mr. President, voter registration laws began to appear in the statutes of the various States during the latter part of the 19th century, they had quick impact. Up to that time, Americans had a relatively admirable record of participation in the Nation's electoral process, twice exceeding an 80 percent turnout. Since 1900, we have not seen 70 percent. Last year we barely saw a 50-percent turnout.

Voter registration, I believe our history will show, came into being concurrent with a heavy influx of immigrants, especially immigrants from Eastern Europe. Voter registration laws were undoubtedly well meant. They were meant to insure honesty in our elections, for instance. But they were also largely intended to restrict the exercise of the ballot—to deny the vote to these new Americans, and to some who had been around a long time as well. It worked and it worked well, as our dismal record of voter participation clearly demonstrates.

This is not the 19th century. America has come a long way in the past 73 years. I have no doubt but that descendants of some of the very immigrants at whom early registration laws were largely aimed are sitting in this Chamber today. We have come that far. But those old laws are, in very many places still working to restrict the access of many working people, of poor people, of aged people, of the infirm and of rural people to the voting booth. And this is so despite the fact that the Nation and this Senate have moved constantly toward an expansion of the franchise, toward a broadening of the base of our participatory democracy.

In 1976, concurrent with our next Presidential election, this Nation will celebrate the bicentennial of the Declaration of Independence. Just how we will celebrate is, perhaps, a good question. But, Mr. President, I can think of no better way to mark that occasion than to demonstrate at the polls that democracy has not withered but has grown. I hope for a record turnout of voters in that election year, and I believe this bill can facilitate the realization of that goal by making sure our citizens are not denied their rights as Americans.

Too often, we encounter officials who consider voting to be a privilege. It is not. It is a right firmly rooted in the Constitution. It is the right of every American 18 years of age or older. But for millions, it is a right difficult to exercise, because of archaic and obsolete registration laws which, if they did have a useful purpose at one time have outlived that purpose. Registration laws are a means of manipulating the electoral processes. Let us be done with manipulation of our political system. It is time to take affirmative action to enroll more Americans in the system.

There is much talk these days, Mr. President, about the need to preserve and protect our political institutions—the means by which we the people govern ourselves. Well, here is a bill, S. 352, which will help to do just that.

Opponents of this bill have raised, time after time, the potential of fraud. But, Mr. President, we have a record of testimony from people long and closely associated with election administration which holds that fraud is not a major problem in the registration process, even when registration is permitted by mail. No, fraud is something that originates with and takes place, because election officials permit it, inspire it, sponsor it. The hearing record of our Committee on Post Office and Civil Service supports this conclusion, as does our experience if we reflect on it. Let us cease this debate and demonstrate our faith in the process and our faith in the people.

Mr. SYMINGTON. Mr. President, will the Senator yield 30 seconds?

Mr. JACKSON. I yield.

Mr. SYMINGTON. Mr. President, I would like to associate myself with the wise and constructive remarks just made by the distinguished Senator from Washington.

Mr. JACKSON. I thank my good friend from Missouri.

The PRESIDING OFFICER. Who yields time?

Mr. MOSS. Mr. President, I yield 4 minutes to the Senator from Ohio.

Mr. SAXBE. Mr. President, I do not rise to debate the merits of S. 352, the Voter Registration Act. I am more concerned with the Senate attending to the business of Government and not wasting its time by stuffing the legislative conduit with verbal garbage designed to impede final votes on this or any bill.

Last session, a bill to which I was very much opposed came to the floor. At that time, this body once again chose to implement the filibuster as a tactic to indefinitely delay a vote. Seeing the hopeless situation before them, proponents of that bill called for three unsuccessful cloture votes. And, despite the fact that I was opposed to the legislation, I voted in favor of ending prolonged debate.

I cast my vote in this manner, because I am more interested in getting to the issue at hand rather than to stymie the legislative process. I cannot emphasize

strongly enough the immediate need for this body to throw out our time consuming and antiquated rules and develop a workable system of procedural efficiency.

One of my first undertakings as a U.S. Senator was joining an unsuccessful effort to change rule XXII. I believed then and still resolve that if we continue to shackle ourselves with the filibuster, we must lower the requirement for ending debate to 51 percent of those present and voting. It is inconceivable to me that, since 1917, this body has entertained 71 cloture votes—of which only 12 were successful.

Today at 1 o'clock, the Senate will attempt, for the third time, to invoke cloture on S. 352. It is my hope that two-thirds of my colleagues present and voting will agree with me that this bill deserves an up or down vote, so that the majority of the U.S. Senate can determine its destiny.

I ask my colleagues who either favor or oppose this measure to join me in voting to invoke cloture on the extended debate so that we can get on with the business of the Senate.

Mr. MOSS. I yield myself 5 minutes.

Mr. President, I, too, cast my first vote in the Senate on the amendment of rule XXII, because of my beliefs about it then, and those beliefs exist today.

The obstructionist tactics of the opponents of this bill have now reached the point of absurdity. We have been debating the bill on the Senate floor since April 10, and we still have not had the opportunity to vote on the merits. Earlier this year, the committee held extensive hearings on the subject of voter registration in which all viewpoints were solicited and considered.

Last year, the Senate debated at great length a bill similar to the one before us now. Our committee also held comprehensive hearings on voter registration back in 1971. In addition, study after study has been held on the subject—going all the way back to the 1963 President's Commission on Registration and Voting Participation.

The Senate surely has had ample opportunity to inform itself on the subject of voter registration, and it is time we voted on the merits of the bill before us. It has become obvious that a majority of the Senate wishes to vote on the bill, but opponents of the measure have droned on and on with a filibuster that thwarts the will of the majority. If there ever were a time that cloture should be voted—that time is now.

I believe that the Senator from Ohio (Mr. TAFT) argued the case for cloture very cogently in the debate on May 3. Allow me to quote from the remarks of the distinguished Senator from Ohio:

> The matter has been fully discussed, and the problems well understood by all Members of the Senate. We have been engaged in debate now for many days. For that reason it would be defeating the will of the majority of this body not to exercise the right to vote for cloture on this measure at this time.
>
> In taking this position, I am not saying that in all instances when cloture is proposed I would vote for cloture. Indeed in many instances I have not, because I have felt there were facets of the measure involved which had not been made clear. But in this instance, it seems to me that the issues are clearly drawn, and therefore it would be my position, regardless of my ultimate position on the bill, to vote for cloture.

Senator TAFT has expressed a position that strikes me as eminently reasonable. Further debate on S. 352 surely serves no useful purpose. By now, the Senate is fully informed on the proposal, and the issues are clearly drawn. The only conceivable purpose of the filibuster is obstruction—pure and simple.

Mr. President, one should note that, despite the lack of democratic spirit displayed by the opponents of this bill, they have at least displayed an admirable consistency. Opponents of S. 352 would deny to millions of Americans the right to exercise their political franchise. In fully consistent fashion, they would also deny to the Senate the right to exercise its will on the merits of the bill before us. I urge my fellow Senators to vote in favor of this cloture motion, which would enable us to vote freely on the issue of voter registration by mail.

There is no need for me to again state the strong arguments in favor of this bill. I have made these arguments during the committee hearings on the bill, and again on the Senate floor. But I would like to clear up one point concerning my home State.

Opponents of this measure have cited Utah as an example of a State with a high level of voter registration, and concluded that Utah proves that a measure such as S. 352 is unnecessary. As Senator from the State of Utah, let me say that just the opposite conclusion should be drawn from Utah's experience. For the experience of my State illustrates what can be done through modern, liberal, voter registration laws.

I am proud to say that the State of Utah traditionally has had one of the top percentages of voter turnout in the Nation. In 1972, Utah ranked third in turnout with 69.4 percent, or more than 13 percentage points higher than the Nation as a whole. One of the reasons for this wider participation is the high degree of public spirit among the citizens of Utah. But another important factor is Utah's progressive voter registration laws. In such matters as residency requirements and the preelection time period open for registration, Utah's laws are more liberal than most other States. As a result, approximately 90 percent of the eligible voters in Utah were registered before the last election. I am certain that if the bill before us is enacted, Utah will have an even higher registration and turnout. Registration by mail will be particularly helpful to those citizens who live in rural areas at some distance from the place of registration.

If the provisions in this bill will be advantageous to the citizens of Utah, they will be a positive boon to citizens in States with more outmoded registration laws; because, unfortunately, many State governments have been dragging their feet for years, and there is little promise of progress in the future. Because of the lack of positive action in many States, it has become apparent that we will be able to increase voter participation significantly only through national legislation. From the experience of the State of Utah, I know what can be accomplished by encouraging voter participation. There is no reason why we cannot do the same on a national scale.

Mr. McGEE. Mr. President, may I ask how much time remains?

The PRESIDING OFFICER. The Senator from Wyoming has 12 minutes remaining; the Senator from Hawaii has 30 minutes remaining.

Mr. McGEE. I yield 4 minutes to the distinguished Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I feel compelled to speak on behalf of cloture on the major issue before this body today, inasmuch as I participated in the campaign for voter registration by mail in my State. The system in practice in Kentucky has demonstrated not only that it can work but that it will work.

Mr. President, just 1 year ago, the League of Women Voters' educational fund completed a comprehensive analysis of this Nation's voter-registration system—or what we know as our voter-registration system. It was not a small sample survey by any means, but an in-depth study covering 47 States, approximately 250 communities, more than 2,000 interviews with persons involved in the electoral process, and observation in person of more than 900 registration and polling places in the United States.

The report of the League of Women Voters gave new emphasis to the unanimous conclusion of many previous registration studies—that the process of registration itself discourages both registration and voting.

Let me quote from the league's report:

> In the presidential election of 1968, 73 million Americans or approximately 60 percent of the total population of voting age actually voted for a candidate of their choice; 47 million or approximately 40 percent did not cast a ballot. Compared with other democratic countries, this voting rate of American citizens is embarrassingly low. For example, the rate at which voters in Italy have participated in elections in the last 10 years has regularly approached 90 percent. Canada records a voting rate of approximately 75 percent to 80 percent, and in the last 25 years West German citizens have voted at rates which range between 78 percent and 87 percent.

In sum, Mr. President, the league study indicated that millions of American citizens fail to vote—not necessarily because they are disinterested but because of the enfranchisement problems in the present election system. Ironically, perhaps, many lose their right to vote for Senators, Congressmen, and other public officials not because they are uneducated, black, poor, or aged, but because they are a part of the American mainstream in the second half of the 20th century. They are mobile people, moving with their jobs, moving to better neighborhoods, serving their country in a location away from home, going to college, or exercising other rights or duties as American citizens.

Registration is the first step in the voting process. And, as the league study has shown, it is the most crucial step as well. We know, for instance, that about 90 percent of registered citizens do vote.

Let me quote again from the league's report of April 1972:

> Observations of registration places and examination of formally stated registration practices provide some dramatic examples of the problems citizens encounter in trying to register.

The first problem that the citizen is likely to encounter will be finding the registration office. He may well have to travel a considerable distance from his home to a central registration office (except perhaps during the last month of registration for a particular election when he is more likely to find facilities in his neighborhood). In 40 percent of the communities studied, however, no additional registration places were opened even during these rush months. Since 54 percent of the registration places were not accessible by convenient public transportation, 24 percent lacked convenient parking, and 52 percent were not clearly identified as a registration or elections office, the prospective registrant may well be frustrated before he arrives.

Once he has located the registration office, the prospective registrant may find that it is not open for registration. In 29 percent of the communities, registration closes more than 30 days prior to an election. Even if he arrives before the registration deadline, the office may be closed since 77 percent of the communities studied had no Saturday registration and 75 percent of the communities had no evening registration during non-election months. While 52 percent of the communities did have additional registration hours during election months, 30 percent of these still had no additional Saturday hours and 17 percent had no additional evening hours.

The league study is just one of several that have pointed out the need for both election reform in general and registration reform in particular through Federal legislation. It is only one of several well-documented studies which make it incontrovertibly clear that the problems associated with the registration processes in use in the States constitute a major roadblock in the way of an expanded electorate.

Mr. President, the time has come to act in this body to sweep away these archaic barriers which serve to restrict the practice of true representative democracy in this country. Let us vote to vote on this issue. Let us face up to the responsibility we have as Members of the Senate. Let us demonstrate that the Senate of the United States does believe in our system of participatory democracy.

The PRESIDING OFFICER. Who yields time?

Mr. FONG. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. FONG. Mr. President, I have before me a resolution from the Florida State Association of Supervisors of Elections, Inc. It reads as follows:

RESOLUTION

Whereas, S. 352 introduced in the Senate of the United States during the First session of the 93rd Congress would authorize postcard registration of electors, and

Whereas, Florida has an efficient method of registering electors through duly elected county supervisors of elections whose offices are conveniently located in each of the sixty-seven (67) counties of the Sunshine State, and

Whereas, a Federal postcard registration system would constitute a duplication of effort resulting in a waste of taxpayer moneys, and

Whereas, postcard registrations under such a Federal system would be difficult of administration because some would be illegible, others incomplete and others impossible to process for other reasons, and

Whereas, registration under a mailing system without a single personal appearance by an elector for the purpose of taking an oath could lead to widespread fraud in voter registration, and

Whereas, it has not been shown that postcard registration would increase voter participation at elections;

Now, therefore, be it resolved that the State Association of Supervisors of Elections after diligent study and serious consideration does hereby go on record as being opposed to S. 352 and the method of postcard voter registration described therein.

Unanimously adopted in convention assembled at Daytona Beach, Florida, this 9th day of February, 1973.

BLANCHE M. WORK,
*President.*
MARJORIE CARMICHAEL,
*Secretary.*

Mr. President, there is no denying the right of registration of any American citizen who desires to register to vote; no one is denied the opportunity to register. There is no denial of the right to vote of any American citizen. If one listens to the proponents of this bill one would think that millions of Americans have been denied the right to register; that they have been prevented and precluded from registering; that they cannot get to the registrar to register to vote; that registration is such an onerous task that a national post card registration system that will cost in excess of $100 million per election year is needed.

Mr. President, we know that any man who wants to register to vote can register. For a State election he has 2 years to register and for a Presidential election he has 4 years to register. Certainly within that time he should be able to find some time, a few minutes, to go down to the office of the registrar in his county, State, or city to register.

Mr. President, this bill is not needed. It is a bad bill. It is a bill which will open the opportunity for a lot of fraud. Anyone who wants to register need only seek a registrar, and in many States the laws are so lenient the man can register whenever he wishes to register. In many cases if a person wishes to register and is unable to get to the registrar, he need only call the registrar and they will send someone to him.

This bill is wasteful because it duplicates the efforts of the States. Heretofore registration has been left to the States. We are here imposing a national registration system on top of what is being done on the State level by State officials.

The voter mail registration system will cost $100 million every time the cards are sent out. This bill will not materially increase the number of registrants.

Much has been said that 62 million Americans did not vote in the last Presidential election. The primary reason why the 62 million Americans did not vote is not because they were not registered. Many of those who were registered did not vote. Many of them did not register because they did not want to do so.

A survey made in 1968 by the Census Bureau of 50,000 households showed that of those not registered to vote in 1968, 53.3 percent, over one-half, did not register because they were not interested in politics. The Census Bureau surveyed 50,000 households. This is unlike the Gallup poll or the Harris poll where there is a survey of 1,500 Americans or 1,200 Americans and by extrapolating the remarks of 1,200 or 1,500 people the American public stands for this or that.

Here we have in 1968 a survey of 50,000 households. If we estimate approximately these persons in each household, this was a survey of approximately 150,000 Americans.

What did the survey find? It showed that of the 50,000 households, 26,000 households did not register to vote. So the question was asked of these 26,000 households: Why did you not register? Of the 26,000 households that did not register, more than 53 percent said they did not register because they were not interested in politics.

Mr. President, if we take into consideration the 10 percent that did not register because they were not qualified to register, because they did not meet the residence or citizenship requirements, it will be found that this 53 percent would increase to 60 percent of those surveyed; so here we have 60 percent of the more than 50 percent of the people who did not register in the 1968 elections saying they did not register because they were not interested in politics. If they are not interested in politics, registering them or trying to register them by mail will not increase the number of registrants substantially.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FONG. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. FONG. Mr. President, in addition, this bill will encourage a great amount of fraud. Let us see how this system would work. A person would send in a post card. The postman would leave 3 or 4 post cards at every one of the 88 million addresses in the United States. To be sure he catches everyone he has to leave three or four cards at each address. Anyone who wished to do so could fill it out, saying he is an eligible voter. He could sign any name to the card.

The registrant sends the card to the registrar who registers the name on his voter register and sends back a receipt to the man who sent the post card. This receipt is prima facie evidence, according to the bill, that the holder of the receipt is an eligible and lawful voter.

So when he presents that post card on election day at the voting booth, there is no question that he is a qualified voter and can vote.

Mr. President, you can see that anyone having a number of these post cards could——

The PRESIDING OFFICER. The 2 minutes of the Senator have expired.

Mr. FONG. I yield myself 3 minutes more.

You can see, Mr. President, that anyone having a number of these post cards can go down and vote a number of times, and the registrar would not know whether he is the person or is not the person he says he is. This law will open up the opportunities for fraud. We will be registering people who never existed. We will be registering people who are away, just by sending their names in. We will be registering people who have

passed on and who were citizens prior to the time of their death. It can be seen that many opportunities for fraud will be present.

The bill injects the Federal Government directly into the election process of each State and each local election. This bill provides that if there is an election of delegates to a national political party Presidential nominating conventions or caucuses to elect delegates to a convention, it is subject to the provisions of the National Post Card Registration Act.

Heretofore, this has always been left to the States. In elections of delegates to the national conventions to nominate a Presidential candidate these State conventions have been carried on by the respective political parties in the States. If one is a Republican, he registers as a Republican, and if he is a Democrat, he registers as a Democrat. He votes in the Democratic primary election or Democratic State conventions or in the Republican primary election, or Republican State convention. He is required to be a member of that political party. The bill eliminates that requirement and may wreck our political party system.

Here we have a registration system which will not close until 30 days before the election. It gives no time whatsoever for the registrars to determine whether a card sender is a bona fide registrant or not. Here we have a system which provides that a man who is neither a Democrat nor a Republican can register and vote in the Democratic——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FONG. I yield myself 1 minute.

He will vote in the party election of that State political party convention, injecting the Federal Government into the political parties of the States.

Besides, this bill compromises the integrity and reputation of the Census Bureau by making a very real political agency, a subsidiary of the Census Bureau should be kept free from political influence. We know of a number of people who refuse to answer census questions because they feel it is an invasion of their privacy. If this political agency is made a part of the Census Bureau, we will find there will be more objections to answering questions when the census taker comes around.

The PRESIDING OFFICER. Who yields time?

Mr. FONG. I yield to the distinguished Senator from Alabama whatever time he requires, Mr. President.

Mr. ALLEN. I thank the distinguished Senator from Hawaii.

Mr. President, the issue the Senate will decide in just a few minutes will be whether or not the debate on the registration by post card bill shall be cut off. In other words, shall cloture be invoked?

Mr. President, consideration by the Senate of this bill is not holding up Senate consideration of any other bill pending before the Senate. For example, on yesterday, this bill remained before the bill only 1 minute, just long enough to lay it down and then lay it aside to take up other matters.

There are numerous amendments and motions that need to be made with respect to this bill. I would hope that the motion to send the bill to the Judiciary Committee or another motion to send it to the Rules Committee might be made. What possible reason, other than that these cards are to be sent through the post office system, could there be for sending this bill in the first instance to the Committee on Post Office and Civil Service? This is a bill having to do with registering voters by post card.

Let us see what the rules of the Senate say on that subject. Rule XXV says that the Committee on Rules and Administration shall have jurisdiction over all matters of legislation having to do with the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials and qualifications—the very matter considered by this bill—Federal elections generally.

It would be the purpose of the Senator from Alabama to file a motion, if this bill is allowed to be debated further, to send the bill to the Committee on Rules and Administration; failing that, to send it to the Judiciary Committee, which would have been a much more logical committee to have received the bill in the first instance.

How does the Committee on Post Office and Civil Service get jurisdiction of this bill? By the fact that tens of millions of cards are to be sent through the post office system to recipients. They are to be sent out in junk-mail fashion, not addressed to anyone, without regard to whether recipients are already qualified voters, without regard to whether recipients have any desire to vote. They are to be broadcast throughout the length and breadth of this country. The postman on the various routes has the right to decide how many of these cards are to be left at these various addresses, because the bill says that there shall be a sufficient number of these cards left at every mail postal address throughout the country.

If this measure were sent to the Committee on Rules and Administration or to the Committee on the Judiciary, there could be carved out of this bill the original sending of cards throughout the country, and thereby save tens of millions of dollars each year. It would still have the concept of post card registration, because the cards could be left at post offices, at mayors' offices, at county offices, and anybody who wanted to come in and pick up a card would be entitled to do so.

Mr. President, I have been impressed by the fact that in all the debate on this bill not a single bit of evidence, not one single comment, has been made about the support of this measure by a single local citizen, by any member of a board of registrars in any city or county throughout the country. There is no clamor throughout the country for this bill. I do not believe there is a single Senator on the floor at the present time, with one exception, who is in favor of this bill. Where is the great public support for the bill? It just does not exist. Throughout the country very few people know about this legal monstrosity—a bill that is not needed, a bill that at best would create second-class citizenship for the registrants under the measure, because it does not purport to qualify a registrant to vote in city, county, or State elections.

If a person goes to the voter registrar now and registers, he is qualified to vote in every election that might be held, whether it be county, State, or Federal. Under the terms of the pending bill, a registrant would be allowed to vote only in Federal elections—that is, for President, Vice President, U.S. Senator, U.S. Representative, and possibly I believe it is broad enough to cover delegates to national conventions. However, when a voter, who has qualified under the pending bill by having his card dumped with thousands of others in the laps of local registrars, goes in to vote, all he is qualified to do is to vote in Federal elections.

Every election now does not involve merely a Federal election. What about county and State elections? What about elections held on the same day that involves both a Federal and local election? Would the election official at the booth say to the fellow that he is qualified under the postcard registration bill? Would he say, "Go in and vote for the Federal officials. However, do not vote for the State candidates, because you are not qualified to vote for them. You cannot vote for the county judge or the sheriff because you are not qualified to do that."

Why should we create two separate classes of voters? Why not let a person go before the local board of registrars, present himself in person, and say, "I am 18 years of age. I am a resident citizen of this county and of such and such a precinct, and I want to register."

That is all he has to do. Mr. President, is that so onerous a task, to require a person who is interested enough to want to vote to go in and register in person?

The distinguished Senator from Wyoming says that there are a whole lot of barriers that are presented to anyone who wants to register. What barriers are presented: They say, "Well, they are not open all day long. They are open on just certain days, and it is hard for someone to go in and register."

Mr. President, I think any person could find out when the board of registrars meets and could go in and register without too much trouble. He does not have to take any literacy test. He does not have to have any qualifications. He does not have to demonstrate the ability to read or write. All he has to do is go in and show that he is 18 years of age and wants to register to vote.

So, Mr. President, there is no barrier to prevent people from registering and voting if they want to vote. And if there are barriers, they are at the State and local level and ought to be corrected at the local level and, we ought not to impose this indignity—because that is what it is—upon our local boards of registrars who are doing an outstanding job, it would seem to the Senator from Alabama.

I feel that it is the failure of people who are registered to vote but who do not care enough to go to the polls that is the cause of the low turnout, rather than their inability to register, because they can register. We do not need another vast Federal bureaucracy, a bureaucracy,

I might say, that is opposed by the Census Bureau in which this bureaucracy would be lodged. It is opposed by the Justice Department. It is pointed out that it would pave the way for fraud and corruption in the registration process. And, Mr. President, what good would it accomplish? How many people would register under this plan and get only half of a voting privilege, which is in a national election and not in the State and local election? How many people would avail themselves of that opportunity?

We have had a system like this in the great State of Texas for 30 years, even looser than this system, because from time to time they print coupons in the local newspapers. All that a prospective registrant has to do is to cut out this coupon—just as one would do if he wanted to send in for a sample of toothpaste—and send it in to the board of registrars, and they are registered, or he could send them a postcard or a letter.

How has this worked in the last 30 years in the State of Texas? It has worked to the extent that in 1970 63 percent of the Texans who are eligible to vote are registered to vote with that loose and free system that they have in the State of Texas.

Conversely in the State of Utah, Mr. President, which does not have this system, how many are registered out there, because of the interest of the citizens and because of their desire and determination to exercise their rights and privileges as a citizen? How many people are registered out there without the benefit of postcard registration? At least 98.4 percent of them are registered. That is well nigh perfect, it would seem to the Senator from Alabama. Yet, under the pending bill, Mr. President, there would be broadcast throughout the length and breadth of Utah hundreds and thousands of these postcards to try to catch that 1.6 percent of the ciizens of Utah who are of voting age.

It would seem to the Senator from Alabama that that is certainly an overkill in the very highest degree.

I dare say that no matter how many tens of thousands or hundreds of thousands of cards are sent out in Utah, they could not improve on this 98.4 percent.

So, Mr. President, the bill is not needed. There is no occasion for ending the debate because there are many motions that still need to be made.

Mr. President, I note in the whip's notice that is sent out by the distinguished assistant majority leader each day that the statement is made that if the cloture motion fails, another motion will be filed. That will make it four times.

Without that little bit of information given up by the whip, it could well be argued that this being the third vote on a cloture motion, it could well be considered to be an up-and-down vote on the merits. And some Senators who might possibly be against the bill, but who might want to vote for cloture, might possibly without this bit of information go ahead and vote against the cloture motion, hoping that the leadership would withdraw the bill from further consideration.

Since the Senator from Alabama has had the honor and the privilege of representing the people of Alabama in the U.S. Senate, there have been a number of issues on which cloture motions have been filed.

I ask unanimous consent that this compilation of cloture motions, the number and the bill as to which the motion was filed, be printed in the RECORD.

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

1969—91ST CONGRESS, 1ST SESSION

S. Res. 11 (amending Senate rules relating to cloture).
2 cloture motions presented and voted on.
Pages 13, 50, 97, 103 in the Journal.

1970—91ST CONGRESS, 2D SESSION

S.J. Res. 1 (constitutional amendment on direct popular election).
3 cloture motions presented,
2 cloture motions voted on,
1 cloture motion vacated.
Pages 858, 868, 906, 910, 934, 937 in the Journal.
Conference report on H.R. 17755—Dept. of Transportation appropriations.
2 cloture motions presented and voted on.

1971—92D CONGRESS, 1ST SESSION

S. Res. 9 (amend Senate rules relating to cloture).
4 cloture motions presented and voted on.
Pages 92, 97, 108, 114, 127, 140, 155, 161 in the Journal.
H.R. 6531 (military pay and Selective Service).
1 cloture motion presented and voted on.
Pages 452–465 in the Journal.
S. 2308 (emergency loan guarantees to business).
4 cloture motions presented.
3 voted on, and 1 vacated.
Pages 548, 552, 560, 564, 573, 579 in the Journal.
H.R. 6531—Conf. rept. (military pay, etc.).
1 motion presented and voted on.
Pages 666–670 in the Journal.
H.J. Res. 1005 (continuing approps.).
1 motion presented, *not* voted on.
Page 1113 in the Journal.

1972—92D CONGRESS, 2D SESSION

S. 2515 (equal employment opp.).
3 motions presented.
Pages 61, 77, 137 in the Journal.
S.J. Res. 241 (U.S.-Soviet agreement).
2 motions presented.
Pages 940–944 in the Journal.
S. 3970 (consumer protection).
3 motions presented.
Pages 1032, 1053, 1076 in the Journal.
H.R. 13915 (equal educational opp.).
3 motions presented.
Pages 1180, 1189, 1192 in the Journal.

1973—93D CONGRESS, 1ST SESSION

S. 352 (Post Card Voter Registration).
3 cloture motions presented.
(April 17, May 1, and May 7).

Mr. ALLEN. Mr. President, I find that in 1969, the 91st Congress, two cloture motions were filed as to Senate Resolution 11, an amendment of the Senate rules relating to cloture.

In 1970, three cloture motions were presented on a constitutional amendment on direct popular election. The motion failed and after the third time the bill was brought down.

On a conference report on H.R. 17755, the Department of Transportation appropriations, two cloture motions were presented and voted on.

In the more than 4 years that the Senator from Alabama has observed the proceedings in the Senate, there is only one instance in which a cloture motion has been filed on four times.

That was in 1971, on Senate Resolution 9, to amend the Senate rule relating to cloture.

So on all of these other measures, three was the limit. But I note from the information given by the majority whip that if cloture is not invoked on this vote, we will have the opportunity of voting again. Mr. President, it occurs to the Senator from Alabama that if a Senator is in fact opposed to this bill, at every opportunity he has, he would vote, in effect, to kill the bill.

The PRESIDING OFFICER (Mr. NUNN). All the time of the Senator from Alabama has expired.

Mr. ALLEN. I thank the Chair, and I thank the distinguished Senator from Hawaii.

Mr. McGEE. Mr. President, what is the time situation remaining on the two sides?

The PRESIDING OFFICER. The Senator from Wyoming has 9 minutes remaining. The Senator from Alabama has consumed the time in opposition.

Mr. McGEE. Mr. President, I have agreed to hold some time for the Senator from Tennessee (Mr. BROCK), and I shall continue to do that in the few minutes that remain. While doing so, I shall take a moment to say one or two things as we conclude this round of the discussion on this measure.

First, I would like to mention in particular once more the discrepancy between the voting records of our fellow democracies in most of the rest of the world, particularly in Western Europe, and our own. The percentage who turn out and vote in Canada, Great Britain, Belgium, Holland, Germany, France, and Italy is invariably higher than ours, with similar parliamentary situations, and we are entitled to ask why.

Again, we have to consider the alternatives. Is it because Americans are not as good citizens? Is it because Americans are not as responsible as European citizens in a democracy? Or is there some other explanation?

Mr. President, I for one am firmly convinced that Americans are at least as good citizens, and in my judgment better. Then what is the difference?

The difference, Mr. President, is simple. In our sister democracies, the government takes the responsibility for seeing that all the citizens get registered—all of them. In the United States, we seek out the individual citizen and say, "If you do not get registered yourself, on your own initiative, you do not get registered and you do not vote." That is the difference.

All we need to do is address ourselves, in this body, to the question of whether we ought to be caught trying to redress that point of emphasis. I am sorry that my colleague from Alabama has left his seat, because I wanted to make a point in regard to his remarks in these last few minutes, and that is the relevant point that he made about the right of a citizen to initiate his own registration and vote, that if the citizen cares enough, let him go down and register, and then he can vote.

I petition my colleague from Alabama to consider the principle that is at stake there. In the Senate of the United States, there are more than 60 Senators who have registered. They have made a spe-

cial effort to qualify for the right to vote in this body on this subject. And yet even that does not work. What hope have we, from these tactics of those who are opposing the bill, to believe they want anybody else to vote? More than 60 Senators have said they want the right to vote on voter registration, and yet that right is being denied. Since the 6th of April it has been denied.

We have been ready to turn to all kinds of other legislation. We have agreed to turn to some. We are not trying to stop the wheels of the legislative process; we are seeking only, Mr. President, to preserve for the Members of this body the right to follow up their registrations, which the Senator from Alabama has so graciously agreed ought to be at their initiative.

They have exercised their initiative, and now they are saying, "We want to vote." And yet the opponents of this measure are hiding behind the screen of unlimited debate, of delaying tactics, denying the right of other Members of this body to stand up and be counted.

Mr. President, I submit in all sincerity that the majority leader was exactly right as he addressed himself to this question a few moments ago, when he said that the time has run out on any excuse for further deliberation.

Of course, there are differences of opinion on this measure. Of course, it is not a perfect bill. Someone else could write a better one than I could. Others could write many different kinds of bills. But this is the bill that the committee, as a result of its hearings and after the suggestions of other colleagues in this body, has been able to agree upon as the one that comes closest to the need, and that is the measure that 60 or more Senators out of the 100 simply want the right to vote on.

For those who fear the bill, for those who shout "fraud," for those who shout "indifference," I say they all ought to vote "nay," and stand before their peers and their constituents on that negative vote. But instead, they seek to stand behind the screen of the rhetoric of delaying actions.

So, Mr. President, I say the time has come for this body to act. I think the Members of this body have a right to say to the Senator from Alabama, "We are registered to vote, and now we want you to put your action where your oratory has been, and give us that right to vote."

That is the issue. The issue applies to the people of this country and it applies to the Members of this body. We ask only for the right to vote.

We are saying to all in public office, "We must be responsible. Let them know where we stand. Do not hide. Do not maneuver. Do not sidestep or sidetrack."

And yet the Senate is caught, at this moment, doing precisely that, at the very moment when the Senate is being called upon to rise to new heights, to reassert its responsibilities in the American governmental process. At that very moment, we are being denied the chance to move.

I can say to my friend from Alabama that not only will there be another cloture vote, if necessary, if that makes any difference to him, and apparently it does not, there will be another one, and then another and then another, because the people demand that we persevere in this effort. The position in which we find ourselves stands in such stark contradiction to the principle of the right to register so that one might have the right to vote that we shall persevere until Senators themselves secure that opportunity which should be theirs to cast their ballots for or against this particular bit of legislation.

Mr. President, it has been a very long course these last 2 or 3 weeks. As I look around the Chamber to see where the missing speaker is, I have to recount how long that course has been. But I would say that whatever else has occurred in these last days, I have not heard a single new argument nor a single new statistic. All I continue to hear are those same worn out statistics from 1968, and reference to the record of Texas, where they did not turn out and vote even though they were registering by post card. But I have yet to hear the Senator from Alabama or the Senator from Hawaii point a finger at the Texas experience and say that they committed fraud with post cards, that they committed fraud with coupons. All they talk about is that people did not vote, anyway, with them. Well, they do vote in Europe. They do vote for some reason. The difference is that there, the government bears the burden of seeing to it that the people get registered. Here we leave it up to the individual. We have to broaden the base of citizen participation in our elections.

Mr. BROCK. Mr. President, I am a cosponsor of this legislation, and I believe quite strongly that it works to the best interest of the people, does not inherently benefit one or the other party, and is drawn with considerable care so as to minimize the potential for fraud.

I must say that I have spoken in this chamber on S. 352 more times than I would have liked to, and I believe even the distinguished senator from Wyoming, who often seems never to tire of talking about this bill, would have preferred to have gotten on to other business long ago.

We have talked out the various technical points in this bill at great length, and it is my opinion that every objection which has been raised by the opponents of the bill has been adequately answered by those of us who favor it.

Therefore, I shall not at this time engage in another technical discussion. Instead, I want to make a more general point, and it is this:

Too many people are confused, disillusioned and alienated from the political process in our country today. In increasing numbers they are becoming cynical about the system. Few warning signals on the horizon could be more ominous, for when faith in the system erodes, the system itself is in grave danger.

Those of us in this body, and all the political leaders in our country, must demonstrate to the people that they, the people, are still sovereign in America, that their representative government does in fact represent them, that they do count for something, their voice can be heard.

In this brief moment, I can but allude to the reasons for the alienation the people feel—debilitating massness in our mass society, stultifying bureaucracy that seems unpenetrable, the breakdown of traditional moralities, all of these are underlying causes.

But I do know that what is needed is reform. Reform, across a broad spectrum of the political process, so that we can really have popular government.

I addressed this body yesterday to suggest some very comprehensive reforms in our campaign practices laws. I believe it is essential that we do something to show the people that a political campaign can be an honest business.

I am fighting for other reforms too—of the way the Congress spends the people's money, for one; what we do to our children when we carry them all across the map just to get to school, for another. But the common thread is to make us more responsive to people.

We define over $200 million of the people's money as the "relatively uncontrollable" part of the Federal budget, and then wonder why they are cynical.

We bus their children, and everyone knows that if the people could vote on it, there would be no busing—but they cannot, they cannot do anything to stop it, and we wonder why they are cynical.

S. 352 fits very well into the pattern of reforms I seek, for it maximizes the ability of people to participate in the process. It is a good bill, a sensible reform, and a meaningful demonstration to the people that we do care about their vote and their opinion.

Mobility is one of the effects of massness, and because of their mobility thousands of people are disenfranchised today. S. 352 will help. Redtape is one of the symptoms of massness, and thousands of people do not register because it is too confusing to figure out how. S. 352 will help.

One further point. I believe the people feel that their Senators ought to be able to vote yes or no on the measures that come before them. I agree, and I suggest to my colleagues that we pass this cloture motion and proceed to vote today on whether or not we shall have reform.

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## CLOTURE MOTION

The PRESIDING OFFICER (Mr. ALLEN). Time for debate having expired, the hour of 1 p.m. having arrived, under the unanimous-consent agreement pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion which the clerk will state.

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.

CALL OF THE ROLL

The PRESIDING OFFICER (Mr. ALLEN). Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 125 Leg.]

| | | |
|---|---|---|
| Abourezk | Fannin | Mondale |
| Aiken | Fong | Montoya |
| Allen | Fulbright | Moss |
| Baker | Goldwater | Muskie |
| Bartlett | Gravel | Nelson |
| Bayh | Griffin | Nunn |
| Beall | Gurney | Packwood |
| Bellmon | Hansen | Pastore |
| Bennett | Hart | Pearson |
| Bentsen | Hartke | Pell |
| Bible | Haskell | Percy |
| Biden | Hatfield | Proxmire |
| Brock | Hathaway | Randolph |
| Brooke | Helms | Ribicoff |
| Buckley | Hollings | Roth |
| Burdick | Hruska | Saxbe |
| Byrd, Harry F., Jr. | Huddleston | Schweiker |
| | Hughes | Scott, Pa. |
| Byrd, Robert C. | Humphrey | Scott, Va. |
| Cannon | Inouye | Sparkman |
| Case | Jackson | Stafford |
| Chiles | Javits | Stevens |
| Church | Johnston | Stevenson |
| Clark | Kennedy | Symington |
| Cook | Long | Taft |
| Cotton | Magnuson | Talmadge |
| Cranston | Mansfield | Thurmond |
| Curtis | Mathias | Tower |
| Dole | McClellan | Tunney |
| Domenici | McClure | Weicker |
| Dominick | McGee | Williams |
| Eagleton | McGovern | Young |
| Eastland | McIntyre | |
| Ervin | Metcalf | |

The PRESIDING OFFICER. A quorum is present.

The question before the Senate now is, Is it the sense of the Senate that debate on S. 352, a bill to amend title 13, United States Code, to establish within the Bureau of the Census a voter registration for the purpose of administering a voter-registration program through the Postal Service, shall be brought to a close?

The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The Chair admonishes the Senate that this is a very crucial vote, and we would like to have as much quiet as possible, so that interested Senators can hear the results of the vote and keep their own tabulations.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

The yeas and nays resulted—yeas 67, nays 32, as follows:

[No. 126 Leg.]

YEAS—67

| | | |
|---|---|---|
| Abourezk | Eagleton | Mansfield |
| Aiken | Fulbright | Mathias |
| Bayh | Gravel | McGee |
| Beall | Hart | McGovern |
| Bellmon | Hartke | McIntyre |
| Bentsen | Haskell | Metcalf |
| Bible | Hatfield | Mondale |
| Biden | Hathaway | Montoya |
| Brock | Hollings | Moss |
| Brooke | Huddleston | Muskie |
| Burdick | Hughes | Nelson |
| Byrd, Robert C. | Humphrey | Nunn |
| Cannon | Inouye | Packwood |
| Case | Jackson | Pastore |
| Chiles | Javits | Pearson |
| Church | Johnston | Pell |
| Clark | Kennedy | Percy |
| Cook | Long | Proxmire |
| Cranston | Magnuson | Randolph |
| Ribicoff | Stevenson | Williams |
| Saxbe | Symington | Young |
| Schweiker | Taft | |
| Stafford | Tunney | |

NAYS—32

| | | |
|---|---|---|
| Allen | Dominick | McClellan |
| Baker | Eastland | McClure |
| Bartlett | Ervin | Roth |
| Bennett | Fannin | Scott, Pa. |
| Buckley | Fong | Scott, Va. |
| Byrd, Harry F., Jr. | Goldwater | Sparkman |
| | Griffin | Stevens |
| Cotton | Gurney | Talmadge |
| Curtis | Hansen | Thurmond |
| Dole | Helms | Tower |
| Domenici | Hruska | Weicker |

NOT VOTING—1

Stennis

The PRESIDING OFFICER (Mr. ABOUREZK). On this vote, the yeas are 67 and the nays are 32. Two-thirds of the Senators present and voting having voted in the affirmative, the motion is agreed to.

The bill is now open to amendment, and under the rule, cloture having been voted, each Senator is entitled to a total of 1 hour's debate on the bill.

Who yields time?

If there be no amendment to be offered, the question is on the third reading——.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. TAFT. Mr. President, I call up my unprinted amendment now at the desk and ask for its immediate consideration and reading.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read the amendment, as follows:

On page 9, line 19, after the word "voting" insert the following: "or registers to vote with the intention of voting more than once, or votes more than once in the same Federal election".

The PRESIDING OFFICER. How much time does the Senator yield himself?

Mr. TAFT. I yield myself 2 minutes.

Mr. President, this amendment would make voting more than once or registering to vote with the intention of voting more than once in the same Federal election a Federal crime. It would be subject to a fine of not more than $10,000 or imprisonment of not more than 5 years, or both, under section 408 of the voter registration by mail bill.

The potential problem of double voting has escalated lately because Congress and the Federal courts have eased residence requirements, thereby making it easier for persons to qualify to vote. The liberalization of residence requirements is certainly a positive step. However, the isolated few who might be tempted to cheat should not be allowed to take advantage of the new situation.

The Honorable Ted W. Brown, Ohio's secretary of state, has pointed out to me that when this form of cheating crosses State lines it is difficult, and sometimes it may be impossible, to prosecute. My amendment would remedy this situation and thus fill a gap in present election laws.

Mr. McGEE. Mr. President, I yield myself such time as may be necessary.

We have discussed this amendment at some length, and I would certainly urge its adoption, and am willing to accept it. That is permissible in the parliamentary procedure.

The PRESIDING OFFICER. The parliamentary situation is that the amendment cannot be accepted, but it can be voted on.

Mr. McGEE. I accept it anyway. Let us vote on it. I do not insist on the yeas and nays, unless another Senator wishes to do so.

Mr. TAFT. Mr. President, I have no intention of asking for the yeas and nays unless another Senator desires to call for them.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

Mr. FONG. Mr. President, the minority has no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. TAFT. Mr. President, I call up my amendments No. 104 and ask that the clerk read them.

The PRESIDING OFFICER. The clerk will read the amendments.

The legislative clerk proceeded to read the amendments (No. 104).

Mr. TAFT. Mr. President, I ask unanimous consent that reading of the amendments be discontinued, inasmuch as they have been printed.

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

Amendments No. 104 are as follows:

On page 6, line 10, after the word "the" insert the following: "positive identification and voter".

On page 6, line 14, after the word "registration." insert the following: "Registration forms shall also include a statement of the penalties provided by law for attempting fraudulently to register to vote under the provisions of this chapter.".

Mr. TAFT. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 2 minutes.

Mr. TAFT. Mr. President, this amendment would provide for the inclusion in registration forms of such matter as State law requires and the administration determines appropriate to ascertain positive identification of the voters. It also would require the inclusion in the forms of a statement of the penalties provided by law for attempting fraudulently to register.

The first provision would emphasize the importance of requesting some information in the registration form which could be used to check the voter's identification. For example, a request in the form for a social security number or a driver's license could be required by the Voter Registration Administration. The committee indicated its agreement in principle with this type of provision on page 10 of the committee report.

Of course, the administration could not mandate under any circumstances that the receipt of such information be made a requirement for voting in an election. Nevertheless, such information would be received from most voters and would provide a positive check against fraud.

The second provision would serve as a deterrent against fraud by warning re-

cipients of the registration forms of the penalties involved if they attempt to register fraudulently.

I believe that these provisions will help to eliminate abuses of the voter registration by mail system.

Mr. McGEE. Mr. President, again we discussed this matter as a tightening operation in general. In the committee we considered this matter of not specifying the specific tightening steps so that the new registration administration would have some latitude to apply the best combination of devices that would help to cinch this point. However, in the light of the dialogs we have had and my own discussions with the distinguished Senator from Ohio, I certainly find no objection to the proposals. They are very constructive. They get to the point we are all addressing ourselves to.

Mr. TAFT. Mr. President, I thank the Senator for his comment. I would simply say that I, of course, have not specified the exact procedural steps. I thought it was wise to indicate the desirability of some type of identification.

Mr. FONG. Mr. President, I have no objection.

The PRESIDING OFFICER (Mr. ABOUREZK). The question is on agreeing to the amendments of the Senator from Ohio (putting the question).

The amendments were agreed to.

Mr. ERVIN. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, I wish to speak briefly in opposition to the bill. I have been a Member of the Senate for more than 18 years. In my considered judgment this is the most unwise legislative proposal ever made to the Senate during my more than 14 years of service.

I think that there are three fatal defects in this piece of legislation.

In the celebrated case of Texas v. White, Chief Justice Salmon P. Chase gave the best nutshell definition of the purpose of the U.S. Constitution when he said that the Constitution and all its provisions looks to an indestructible Union composed of indestructible States.

The proposed legislation would do more to destroy the federal system of Government than any other piece of legislation that has been proposed in this body since I have had the honor to be a Member of the U.S. Senate. The seeds of destruction of the federal system of Government are in this proposed legislation.

Throughout the history of this Nation, the power to pass upon the qualifications of those who shall vote in Federal as well as State elections has been vested in local election officials. This bill not only takes away that power from local election officials in respect to Federal elections, but it also contains in it a proposal that they bribe the States to adopt the provisions of this bill in State elections.

Mr. President, whenever we concentrate the control over the electoral process of this country and the control over who is going to vote in the exercise of this process in one bureau in Washington, as this proposed legislation does, we destroy the power of the States to maintain their sovereignty.

This bill is destructive of the concept that we shall have an indestructible union composed of indestructible States, because it carries within it the seeds of destruction of the power which has always been vested in the States and which must always be vested in them if we are to have a fair system of elections.

This bill in effect makes some virtually faceless bureaucrats in the Bureau of the Census the rulers over the 184,000 separate election precincts in the United States. It is a symbol of the most virulent form of Potomac fever that our Nation has witnessed. The vote for cloture indicates that the bill will pass the Senate by a very substantial majority, and it indicates that Senators are coming to the conclusion that the people who have sent them here—that is the people of their States—have not got enough sense to manage their own affairs and that that power must be transferred to some bureaucrats up on the banks of the Potomac River.

That is the first serious objection to the bill. There is another serious objection.

If America is ever destroyed as a viable nation, it is going to be destroyed as a result of the solicitude of those who exercise legislative power for those who are unwilling to do anything to help their country rather than for the people who are willing to do something to help build up their Nation.

In the average State it takes a man about 15 minutes before a registrar, no more than that, and sometimes less, to register to vote.

The pending bill is in effect a proposal that we put power in the hands of people who do not care enough about their country to take a few minutes once in a lifetime to appear before a registrar and establish their qualifications to vote.

I think it is about time that we do something in this country for the benefit of the people who love their country and who are willing to undergo the inconvenience of spending 10 or 15 minutes out of a lifetime in going before a registrar and manifesting their love of country by registering in person.

Mr. President, I can neither demonstrate sorrow nor shed crocodile or political tears over any person who does not care enough about his country, who does not care enough about his duties to his nation, and who does not care enough about the precious rights which his nation has given him to go and register in person.

The third serious objection to the bill is that it is an open invitation to people who are willing to do so to steal the election of a President of the United States or the election of a U.S. Senator or a U.S. Representative. If people are too lazy to take the trouble to go in person and register or are so lacking in interest in their country's welfare to take the trouble to do so, they are not going to determine their own votes, someone else will determine for them how their votes are cast.

Mr. President, this bill ought to be entitled, "A bill to encourage the most colossal election frauds." Any person can register anyone else under the pending bill. He can procure the registration of people who do not even exist.

To be sure, there has been some small fraud in elections in times past. This is illustrated by the story of the two men who went into the cemetery to copy names off the gravestones, and then cast absentee ballots in their names. But there was a modicum of honesty even in such people. John Doe and Richard Roe went into the cemetery on such an errand one time. John Doe was reading the names off the gravestones and Richard Roe was copying them down.

They got to a gravestone that said, "Sacred to the Memory of Isadore Tscherenstein."

Richard Roe said, "Wait a minute, read that name again. That's a long name; we can divide it into two parts and have two ballots instead of one."

But John Doe said, "Oh, no, if I'm going to have anything to do with this, it's got to be honest."

There is no way, under this bill, for a registrar to determine whether a man whose name purports to be signed to one of these postal cards has ever come into being, or whether he is sleeping in the cemetery. If the registrar gets notice of a fraud, he has to write a postal card or letter about it to some unelected, and unanswerable official who sits in the Bureau of the Census and who is under no obligation to do anything. This bill is an open invitation to steal the election of the President, the elections of Senators, and the elections of Congressmen. I think, and I say this deliberately, that I am satisfied it is the most unwise legislative proposal which has been made to this body since I became a Member of it.

There is absolutely no way to detect fraud. There is absolutely no way to determine whether a person who signs one of these purported postal cards has even ever been born, or whether he is sleeping in the tongueless silence of the dreamless dust in some cemetery. To be sure, the Attorney General of the United States can bring a civil action, but the election will be over before the case can be tried.

People ought to be required to pay just a little bit for their precious rights, and the general public ought to have a system under which registrars can determine whether a person who applies by postal card for registration even exists, or whether he is qualified. There are no safeguards whatever in this bill. And the tragedy is that the history of this Nation shows that men who will not steal your money, men who will not defraud you of your property, are willing to steal your vote and to defraud the public by stuffing the ballot boxes with votes of people who are not entitled to vote, and who, under this bill, do not even have to exist.

So I reiterate that I think I would do my country a grave injury if I were to vote for a bill which makes such a foul assault upon the federal system, which shows so little consideration for people who do love their country and places the control of that country in the hands of people who would trifle with the welfare of their country, and which opens the door to frauds in elections which the wildest dreams have not yet visualized.

Mr. STEVENS. Mr. President, it has been with great reluctance that I have

opposed a bill that has the support of the chairman of our Committee on Post Office and Civil Service.

I tried to eliminate from this bill the provisions of section 404 which require that the States maintain their registration procedures until a time not later than 30 days immediately prior to any Federal election.

It is physically impossible for my State to comply with that provision. I have great respect for the chairman of our committee and those who support this bill, but I can state that in the 5 years I have been in this body, I have never received as many telephone calls or visitors or as much arm-twisting to change a vote; and I for one hope it does not happen again, as I think that such tactics just solidify a person's feelings concerning his own interpretation of legislation.

I have checked this provision many times with our Lieutenant Governor, who is the official who maintains our election procedures, and he, too, believes that this provision will destroy the registration system of the State of Alaska. Because of the fact that we are one-fifth the size of the whole United States, we deal each election with voting that is held in places as far apart as Jacksonville and Detroit, as New Orleans and San Francisco; we cannot, with the means available for communication today, namely, the Postal System, use a post card registration system and comply with that section.

I have pointed this out repeatedly. I have been in contact with those people who met in New Orleans, representing the election officials of all the States. They concur, I am informed, in that belief. I have worked long and hard with the Senator from Massachusetts (Mr. KENNEDY) on the bill that we authored to give the States an option to use additional procedures to increase voter registration.

It is a strange day, I think, when with five lines in a bill that pertains to a postcard registration system, the Senate would overrule three Supreme Court cases that are not yet 90 days old, without even thinking about it, and without knowing what we are doing. The Arizona case, the New York case, and the Georgia case are thrown out the window despite the fact each represents an honest attempt of State election officials to comply with the Supreme Court's opinion; to permit the people of those States to register, to set up procedures whereby they can in fact encourage registration. And, through our Alaska registration system, we have increased participation in voting in the State of Alaska.

I am sorry to say I shall have to vote against this bill, and I hope I will have an opportunity again to vote against it. It moves in the wrong direction, in my opinion, to compel the States to do something in the name of increasing voter participation which will in fact destroy the existing systems of registration in those States.

Mr. COTTON and Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER (Mr. ABOUREZK). The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I rise in support of this legislation. I had no intention of speaking today, but in the light of the fact that the distinguished senior Senator from North Carolina, for whom I have the greatest respect, and who I think knows more about the Constitution than any other Senator, rose with such eloquence to point out three fatal flaws in this legislation, it is because I have such respect for him that I rise to respond, as inadequate as the response might be on the spur of the moment, to the three objections he has pointed out.

First, the Senator from North Carolina states that this measure, in effect, runs contrary to the whole concept of our federal form of Government, in that it will move against an indestructible union by weakening the participation of the States or the say of the States in the electoral process.

As I understand the bill, the States are still going to have the determining responsibility as to whether or not someone is legally registered, whether or not there is fraud, or whether or not there has been any attempt to prostitute the process. So I do not quite understand that objection.

Second, with regard to the question of fraud, there can be a great deal of fraud under the present form of registration in our Federal elections. It seems to me that there is no greater possibility of fraud in this bill than we now have. But the third and most important point that I am a bit confused on, and would like to speak to, is that the senior Senator from North Carolina points out that, for those people who do not care enough about their country to take 15 minutes to register, perhaps we should not go out of our way to help them to be able to register. It seems to me that the logical extension of that argument would be that those people who failed to learn how to read and write years ago should, in fact, not have been allowed to vote because they did not care enough about their country to learn how to read and write, to go through the process which, in days gone by, was required of them in order to qualify to register to vote.

Mr. President, it is a great hardship, in my State, and in other States, for many working men and women to get the opportunity to find that 15 minutes, when many of the polling places are only open between the hours of 9 and 5 and are located in one central spot in the middle of a county and thus not readily accessible to them, and when many States do not, in fact, take the time to advertise when their mobile units will be available.

So it does not seem to me it is as simple as that 15 minutes might sound, because it is difficult for many people in certain areas of the country, and in certain segments of the economy, to be able to find that time, although it may be very simple for me to find the time.

Therefore, with all due respect, I think that there is just cause for us to pass this legislation, that it does increase the franchise, that it does not in any way endanger the rights of the individual States, nor does it add to the possibility of any additional fraud.

Thank you very much, Mr. President.

Mr. COTTON. Mr. President, I desire to express a few sentiments about this measure which is about to pass the Senate and which I think carries a significance far beyond the realization of many members of this body and, certainly, far beyond the realization of many of our citizens. In the first place, let me say that, as usual, I was deeply impressed by the words of the distinguished Senator from North Carolina (Mr. ERVIN). I have never known him to speak in the Senate that he did not speak to the point, that his words were not weighed and measured, thoughtful and logical, and most worthy of the closest attention of every Senator.

If he was ever right in his life, he was correct in every word he said here in the Senate this afternoon. I compliment him and associate myself with every word that he said.

However, Mr. President, there has been one thing the Senator from New Hampshire has noted throughout this long debate, one thing that, so far as he has been able to note, has not been disputed. It is recognized that there is not a Member of this body, or a good American citizen anywhere, who does not deplore the fact that such a small percentage of Americans go to the polls and vote. On that, we all agree. We all agree that every reasonable step should be taken to encourage and to bring about a wider use of the franchise and also a more intelligent use of the right of suffrage.

But, there is one human trait that if we stop and think about it, if my colleagues will let their minds go back over their experience since childhood, the one human trait that is universal is the fact that the cheaper we make a thing the less people value it, and that the poorest way to obtain a greater percentage of voting on the part of the people is to make the privilege of voting seem to them something that is so easy and so casual and so cheap that it is not worthwhile.

I have watched that through many, many years. In my own State, I have watched steps taken that have led, in my opinion, to a weakening of our system. As a member of my own State legislature, I found myself in a small minority—I was not so accustomed to it then as I have been since I came to the Senate—but I found myself a member of a small minority which spoke and protested in our own State legislature against the expansion of the privilege of absentee voting. We started by adopting a State law that permitted absentees—those who were out of the State, or who were ill and had a doctor's certificate that they were ill and were unable to go to the polls—to vote for President and Vice President of the United States.

But we were very careful, Mr. President, not to extend that to local offices. It did not seem to us that people who had resided out of the State, or spent most of their time out of the State, or in traveling, even though they rightfully retained their voting residence in the State and had been gone for years, were really competent to decide on local, county, or municipal candidates. So we restricted it to the right of absentees, and those confined by illness, to cast their vote for

President and Vice President of the United States.

Then the next step was, we broadened it so that they could vote for all the candidates on the ballot. I opposed it for the reasons I have just stated. But it carried.

The next step we took, which I opposed most vigorously, was to provide in our State law that people who went to the supervisors of the check list or the town clerk—have forgotten what public official it was—and simply asserted that they might be out of town on election day, that they were planning to be out of town, or business was going to take them out of town, would be permitted to vote in advance and have their votes deposited.

Then it was, of course, provided as a part of that measure that they could have it done by having the official come to their homes.

So that year by year—this is what I predicted on the floor of the legislature in my own State many years ago, and it has been proved true—2 or 3 weeks before an election, the Democrat town or city or ward committee and the Republican town or city or ward committee start gathering votes, going to people's houses with a justice of the peace or a person qualified to take their statement and receive their ballot. All the person need do is say, "I expect that I shall be out of town on election day."

So that year by year, more and more votes are being collected in advance from people in perfectly good health, who very likely may be perfectly able to go and cast their votes on election day.

I predict that some day we will have a scandal out of that; because enough chicanery can go on at the public polling place, with watchers of both parties and representatives of all candidates, without having people cast their ballots casually in their kitchens.

The interesting thing—I still am talking about my own experience before I came to Washington—is that every step we took in my own State to make it easier for people to vote, easier for more people to vote, less trouble for them to vote, the smaller percentage of votes were cast on every succeeding election, year by year. It did not increase the exercise of the franchise.

To be sure, one can say that the population was increasing. One may question that as the reason. But the fact remains that every step we took in my State—and I regret most of them and fought against them in the legislature—every step we took to make it easy and casual and simple and no trouble and only a matter of a few minutes, at their convenience, to cast their vote, the less votes were actually cast.

Now we come to the situation here in the Federal Government. I well remember when we started down the line of making it easy for people to vote. First we dispensed with the necessary qualifications of being able to read and write. I cast my vote for that under one of the civil rights bills, but I did it reluctantly. But I recognized that many of our citizens had been discriminated against for many years; that many of our citizens, particularly of the black race, had been subjected to unreasonable tests of literacy.

I well remember, years and years ago, a certain friend of mine, a Senator, saying:

> In my State we keep the people of a certain race from voting because we ask them to read, before the election officials, certain printed documents. If they can't read them, they can't vote. Once in a while, along comes a college professor or college president, who obviously can pass. Then we ask him to interpret a rather obscure and much-debated provision in the State constitution. You can't interpret it, I can't interpret it, and he can't interpret it. So he doesn't vote.

So I was willing to vote for it, as a temporary matter, but I hope that it is not going to be permanent. I cast my vote to strike down the test of literacy in the matter of permitting citizens to vote, in order that those who had been discriminated against and in order that those who had not been given a reasonable and equal opportunity for an education would have the power of the ballot and the right—the sacred right that every American citizen has—to vote.

I hope, however, that when these conditions are adjusted—as I trust and pray they will be in years to come—so that equal educational opportunity is available and is used by all, we will again in the States require a literacy test.

I believe it was James Madison who made the prediction, at the time of the adoption of the Constitution, that this Republic would stand or fall and the day would come when its future would be determined on the intelligence of its electorate.

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

Mr. COTTON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Each Senator has 1 hour.

Mr. COTTON. I have not used much of that time.

The PRESIDING OFFICER. The Senator has used 16 minutes.

Mr. COTTON. I yield.

Mr. DOMINICK. I have been listening very thoughtfully to what I think is a very good speech. I also listened to Senator JACKSON, prior to the cloture vote, urge that we should vote for cloture.

The thing that bothers me all the way through is that we are dealing with a registration bill, and those who are in favor of this bill keep talking about how you are going to make it so that more people will vote. But the fact is that in my State approximately 90 percent of the people register, and I regret to say that of those who register, only about 80 percent vote. I do not know how many registrants we had in the 1972 election, but I would think it was a great deal; and I believe the figures indicate that of those registered, only 50 percent or 60 percent voted.

For the life of me, I cannot see why this bill is going to do anything to get people to vote. If they do not like the candidates or if they are busy, they simply are not going to bother to exercise their franchise. Putting in this post card type method of voting, which leads to obvious fraud in every direction, in every major city in the country, and it seems to me it is an invitation to fraud, it is just plain poppycock so far as trying to get more people to vote.

Does the Senator have figures on how many people were registered and did not vote last time?

Mr. COTTON. I do not have those figures available because I did not anticipate I would be speaking on this matter this afternoon. However, the figures are rather appalling.

Mr. DOMINICK. My reason was that only about 50 percent of those who were eligible to vote actually voted. I do not know how many of those were registered. If the figures of my State are high, and I believe they are, if you have only 80 or 90 percent registered you have a bigger drop between those registered and voting than you do those eligible and registered. So this is not doing a particle of good. I hear such pious speeches from the other side about what a great boon this is to the public. I do not see where it is a great boon. It seems to me we are dealing with semantics that do not make much sense.

I intend to vote against the bill.

Mr. COTTON. I have just had brought to my attention page 4 of the minority views submitted by the distinguished Senator from Hawaii (Mr. FONG) on this measure. The Senator's estimate of the voter turnout in the 1972 election is confirmed by item four on that page which indicates that:

> The national average of voter participation in the 1972 presidential election was only 55.6 per cent. Some 44.4 per cent of eligible voters failed to vote despite the provisions of the 1970 Voting Rights Act which made it easier to vote by (1) requiring residency of only thirty days for presidential elections; and (2) allowing absentee voting in presidential elections.

Mr. DOMINICK. I thank the Senator.

Mr. COTTON. I thank the Senator for his observation.

Mr. President, I do not wish to take too much time of the Senate, but in order to make sure I get across the point I want in the RECORD let me recapitulate. I have already mentioned how in my own State we began to erode the importance of the ballot by absentee voting and by liberalizing the laws of absentee voting. Then, here in Washington we started in by abolishing the literacy test. At about the same time, as I remember, we made another change. Previously we had permitted people who live in this country who cannot read or write in the English language to vote if they could read and write in their own language. To me that seemed to be a dangerous precedent. The next step we took was to weaken, undermine, and practically abolish any residency requirement. Voters can easily go into any community in this country without establishing any real and substantial period of residency, and register. It used to be that a year's residency was required in my State, and in some States it was 6 months. There was a residency period required and to protect that voter from losing his vote it was provided if he had not lived there quite long enough to vote he did not lose the right to vote in his last place of residence until he had been in the community long enough to establish his residence in the new location.

We took the step not long ago and practically abolished residency for people to cast their votes on local matters. They can cast their votes in matters of vital importance in the town or city. They can vote on a bond issue; they can put their town in debt; they can vote in all kind of matters of great local importance. Under the act passed by Congress not long ago, we cut another protection away from intelligent voting and away from impressing upon people that there is something more than a casual act involved in exercising the sacred right of franchise in the first republic of our kind on earth.

Again I repeat, Mr. President, each time we have taken these steps, the percentage of those who exercise the right to vote has been less. Now we come to what I hope will be the end of the road. I cannot think of anything else that has been done to cheapen and take away the respect of people for the right of franchise.

This bill is certain to pass within a few hours, or very shortly. It simply means that by sending a post card and registering one obtains the right to vote. I am one of the oldest Members in years of service in this body. It has been a long time since I cast my first vote. The day after tomorrow I will be 73 years of age, but I have never forgotten the day I went back to the little mountain village in northern New Hampshire where I was born and raised. I went back there as a senior in college, first to register and then I stayed 2 days longer to cast my first vote. I was 22 years old. I remember I went back to that little village and I went before the supervisors of the district. Every one of them knew me; they knew my family; they knew my father; they knew my mother, and they knew my grandfather and my grandmother. They had known me from childhood and they knew I was a senior in college. Do not think for a single minute that those old gentlemen who were supervising elections in that little town of New Hampshire did not bring a card on which was a provision of the State constitution. They handed it to me and they asked me to read it aloud to them to demonstrate that I was literate, that I could read and write. I do not know that nowadays a senior in college could do it, but in those days we assumed they could do that.

The point was that that was one of the requirements and I was required to comply. Then, I signed an affidavit that I had lived in that town for 6 months and in the State a year. I fulfilled the requirement. My name was written on the list and 2 days later, rather proudly, I marched in and cast my first vote. It meant something to me. It was a ceremony.

Not long ago we opened up the voting to all over 18 years of age—which I supported—so that all the young people who are naturally interested in public affairs, according to the demonstrations that take place, who are very vocal and sometimes almost violent in their feelings about public issues and their country, could vote.

We made it easy for them to vote, but there was a distressingly and surprisingly small percentage of them who did vote.

Mr. President, day after day I have listened on this floor to Senators who have insisted that the great virtue of this measure is to increase the exercise of the right of franchise; and I say it will have just the opposite effect, because it cheapens and makes more casual the process of voting. It will not only open the way to all kinds of fraud, as has been emphasized, but it will cheapen the voting process in the eyes of the American people.

Some things are important. The proudest day, I dare say, in the life of every Member of this body was when he was escorted up the aisle and stood on the steps of that rostrum and held up his hand and for the first time was sworn and took the oath of office as a Senator of the United States.

I am sure there is not a Member of this body who will not recall that first time—as well as the others, but particularly that first time—as long as life lasts. Then he signed the book. Then he was given the pen with which he signed the book, and kept it, I would wager other Senators have kept it, as have I, as a cherished possession.

I say to you, Mr. President, that if you want people to exercise the right of franchise, you should not make it so casual and so cheap and so easy so as to make them, especially young people, feel it is not an important function.

That is why I have not hesitated to vote against cloture. I have listened to some on the floor who have rambled on and said, "Certainly, I do not object to people disagreeing with me, but let's vote." As a matter of fact, there was not a Member of this body who did not know that when we got to a vote what was going to happen. But I feel such apprehension, Mr. President, about the effect of what is going to happen and about the fact that it will not accomplish the thing that we all wish it would accomplish, but will work exactly the opposite, that it did not strain my conscience one bit to stand up and vote against cloture, and I would continue to vote against cloture until kingdom come, because I regard this as one of the most disastrous measures the Senate has ever had before it and will ever have.

Why do they not go a step further, Mr. President? When an alien comes to this country, we make him make application for citizenship. We make him file for his first papers. Then a period elapses, and he has to file for his second papers. We make him go before the court, and he is examined and asked questions as to who is President of the United States, who his Senator is, and who his Congressman is. He is very lucky if he knows, because very few people do. But he is asked questions about our form of government. His character is examined. His reputation is examined. He has to be examined, and then he holds up his hand, he renounces allegiance to the country of his birth, the country from which he came, and he is sworn in as a citizen of the United States of America.

I do not know what other Senators do, but so long as I have been in Congress, both in the House and in the Senate, I have always had a list of the new citizens. I have written them letters. I did not ask them to please vote for me because they have become citizens. I may have had that thought in mind, but I have written them letters, congratulating them as citizens of this great Republic and welcoming them as citizens. That has been a custom in my office for as long as I have been in Congress.

Why do we not fix it so that we can just send them postcards? Why do we not fix it so that someone who wants to be a citizen can send a postcard to the clerk of the court or to the court itself and tell the court that he would like to be a citizen? Then let him be one. Does anyone believe that he would be as good a citizen, even if he were a fit person? Of course, we could get any *kind of* person—a Communist or anyone else—but does any one believe he would value his citizenship as much as when he goes before the court, is examined, and takes an oath renouncing his allegiance to the country whence he came, pledging his allegiance to the United States of America and to defend it against all enemies, foreign and domestic?

It would impress him even a little more, if he were to go through some formality before he became a citizen, if he had lived somewhere for a reasonable time as a part of the community to demonstrate his desire to vote, such as by appearing personally.

I say that every time we cheapen the vote and make more easy and more casual the privileges of citizenship and the privileges of the franchise, we do not increase the percentage of people who vote, but that is the surest way of decreasing it.

I know that those who support the bill are supporting it with the highest possible motives, and with the desire that we all share, namely, that more persons will be able to and will exercise their right to vote. But I venture to predict that it will have the opposite effect, because down through the years, every time we have thrown down the bars, taken away the ceremony, and made the requirements easy, we have cheapened the sacred right, and people are not so eager to exercise it.

Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator has 25 minutes remaining.

Mr. COTTON. It is this sort of action on the part of Congress and on the part of the Senate that reconciles me to the fact that my time must of necessity be limited. Whether I retire at the end of this term or whether I start another term, I will have completed 20 years in this body and 8 years in the other body. I shall soon be gone.

I have loved and valued my association with Members of this body, the finest men I have ever been privileged to know, regardless of where it was. However, Mr. President, this is the usual complaint. It is perhaps the generation gap. Year by year, I have seen the deepest and best principles of this great Republic eroded by many of the sincere but hasty actions taken in this body. And of all the actions I have seen taken, the one that we are about to take today, in my opinion, is the worst, the most dangerous, the most disastrous.

I hope that someday the pendulum will swing the other way. I hope that after we have succeeded—let me be frank, I hope that we do succeed in striking down forever the barriers between races and groups, and the ethnic groups in this country.

I am as anxious as anyone else in the Senate to see every child, whatever be its origin, have the same opportunity and exercise the same opportunity for health and education. And when that is done, I hope that we will remember what James Madison said and restore a literacy test for those who are going to vote.

I hope that the pendulum will some day swing back. I predict that if this Republic is to endure, it will swing back.

Mr. President, there are some things on which I believe the Senator from New Hampshire can claim to be an expert. One of them is on the appropriations we make each year for health, education, and welfare. I have worked harder, and many long years, and have put my heart more into the work of that committee to open wide the doors of opportunity for people to have health and education and a right to a decent life, than in all of the other work I have done in the nearly 28 years I have spent in Congress.

I will not let anyone stand up and say that NORRIS COTTON is so conservative that he has no compassion. I am not going to let anyone stand up and say that I am not consumer-minded, because on my other committee I have cosponsored and worked on some of the soundest consumer bills we have ever passed. I am not going to let anyone stand up and say that I have not tried whenever I could do so to see that there are hospitals and institutions to care for the young and the old and that there are opportunities for the old.

I think it was my honor as a Member of the other body many years ago to introduce the first bill to let those on social security have a larger ceiling on what they were allowed to earn, providing they did not earn it in the same capacity they pursued while they were working and had an active life.

I bitterly fought against our prolonging human life and putting older people on the shelf to die of unhappiness, bitterness, and loneliness.

I want to say here and now that if this happens to be the last chance I have to speak on the floor of the Senate—and with my 73d birthday coming the day after tomorrow, it could be the last chance any one of these days—I believe in progress. I believe in meeting the changing times of this great Nation and the needs of its ever-increasing population. I believe in opportunity for the white and the black, for the rich and the poor. However, I also believe that every time we cheapen the processes of the exercise of a citizen's function in government and make it casual so that it is the mere getting and signing of a post card and take away the formality, we take away that citizen's respect, and we cheapen that privilege in his life. And that is what this is bound to do. And that is why I must vote against it.

Mr. PERCY. Mr. President, would the Senator yield for a brief comment.

The PRESIDING OFFICER (Mr. SAXBE). The Chair would like to point out that a Senator is not supposed to yield except for a question. Each Senator has 1 hour.

Mr. PERCY. Mr. President, I ask that I be recognized on my own time, and I intend to speak for only 2 or 3 minutes.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, even though I may differ on occasion with my distinguished friend, the Senator from New Hampshire, I would be the first to say that in my judgment the Senator from New Hampshire will be speaking on this floor for many years to come, and he will be speaking with the same articulate voice and with the same vigor and enthusiasm for the things he believes in. And he will be fighting those things he does not believe in with conscientious and deliberate thought.

I would like to say that if at any time anyone would ever want to question whether the Senator from New Hampshire is progressive with respect to the human rights and needs, the Senator from Illinois would point out, after the 6 years he has spent in the Senate, that the Senator from Illinois has many times come to the Senator from New Hampshire for his counsel and help, whether it was with regard to the young or the old, the physically handicapped, or whatever the need might have been.

As a powerful member of the committees on which he serves, the Senator from New Hampshire is a distinguished Member of this body who has fought for the rights of individuals through the years.

However the Senator votes on the pending measure, I intend to vote for it.

In his record of a lifetime of public service, including his many years of service in this body and in the other body, the Senator from New Hampshire would not have to explain any vote he has cast in the judgment of the Senator from Illinois. His record has been sound and convincing. He has consistently found ways in which to assist those who need the help of the Government, although he has always encouraged those who could do so to stand on their own feet and has encouraged those who needed help to try to get on their own feet as quickly as they could.

I support the pending legislation, and I support the right of the Senator from New Hampshire to differ with me, as he has in this case.

Mr. COTTON. Mr. President, I express my deep appreciation to the distinguished Senator from Illinois for his kind words. They mean very much to me, and I am deeply touched by them and appreciate them.

AMENDMENT NO. 100

Mr. TAFT. Mr. President, I call up my amendment No. 100 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, in view of the fact that it has been printed, and a copy is on the desk of each Member.

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

Mr. TAFT's amendment (No. 100) is as follows:

On page 8, line 15, strike out the word "may" and insert in lieu thereof the word "shall".

On page 8, line 16, after the period insert the following: "Whenever the State official is advised in writing by any member of a county, city, or other election authority designated and authorized by State law to issue election ballots that there is reason to believe that in the area over which such authority has jurisdiction, individuals who are not qualified electors are attempting to register to vote under the provisions of this chapter, he shall notify the Administration and submit to the Administration his evaluation of the validity of such written advice."

On page 8, line 17, delete the word "such".

On page 8, line 18, delete the following: "as it deems appropriate".

Mr. TAFT. Before proceeding to discuss this amendment, I wish to give recognition to the Senator from New Hampshire for a very thoughtful and provocative discussion of this measure. As I have already indicated in the debate on the bill, I have many serious reservations about it. I have felt, however, that we had had a very full discussion on the bill, and therefore on the last two cloture votes I have gone along with voting for cloture, to bring this measure to consideration and disposal by the Senate. But the Senator from New Hampshire, in his vast experience and wisdom, has pointed out, I think, the dangers that may exist with regard to the possibilities of fraud in the system that is being proposed in this measure. I have not as yet decided for my own account whether those dangers are so great that they more than vitiate the advantages that may accrue in encouraging registration by citizens who might not otherwise register.

The amendments that I have already proposed, which have been so graciously accepted by the chairman of the committee and the ranking minority member of the committee, comprise, I think, some constructive steps in attempting to eliminate possible dangers in the bill. It is hard, however, to foresee all such dangers. I have one other amendment besides the one I have currently called up which I shall discuss at further length in this connection, but let us discuss for a moment Amendment No. 100, which is presently before us.

The first line of the amendment would require, rather than authorize, a State official who has reason to believe that registration fraud has been committed in his jurisdiction to notify the Voter Registration Administration which is set up by this bill, and to request its assistance to prevent the fraudulent registration in question.

The practical effects of the change would be to get the Voter Registration Administration involved in more instances where the State official has reason to believe that fraud has occurred, and to allow an action by other interested

citizens to mandamus a State official in cases concerning registration fraud, so that the responsible official could be made to notify the Voter Registration Administration, or called to account for his failure to do so. Without such a provision in the bill, it seems to me that the language of the bill which says that the State official, if he has reason to believe that there is fraud, may notify the administration, would not permit the ordinary processes of mandamus against a public official to carry out his duties and would leave above question the final decision of the State voter registration official on that question.

I do not think things should be left on that basis. I think any citizen should be in a position to require, if the official has reasonable cause to proceed, that he should proceed.

Since this bill makes attempts to register fraudulently a Federal offense, it is certainly appropriate to involve the Federal Voter Registration Administration in alleged fraud situations on a regular basis rather than a sporadic one.

The second part of the amendment is designed to make clear that a member of any duly authorized election authority—that would be of either party, generally the Secretary of State or other top voting official and/or members of the boards of election of the particular voting units involved under the definition of "units" in the bill—would be charged with bringing alleged registration fraud to the attention of the Voter Registration Administration. Judging from the bill's definition of "State official," I believe that this was the committee's intent, but I wanted to discuss the matter and bring it up by introducing this amendment because I think there could be some confusion here unless we adopt the amendment or establish some legislative history in this connection. I believe it is imperative that any member of an election board be considered a "State official" so that, regardless of party, he, or any individual, for that matter, can notify the Voter Registration Administration if he thinks that fraud is occurring.

If the Senator from Wyoming wishes to comment on this point, I yield to him for that purpose.

Mr. McGEE. Yes. I think the Senator from Ohio makes an important point, and that is that the intent of this measure be unequivocal, and particularly in the second part of the amendment, which he is addressing himself to now—that is, that any member of the election board, regardless of party and regardless of what stage it may be, may be properly regarded as a State official in the intent of the law itself.

I think that is important. I agree with the Senator completely that there should be no loophole there through which someone might slip by exception and the effort be ruled out of order.

I think this colloquy should leave no doubt that the intent is mutual, that is, the expectation of the Senator from Ohio and the intent of the committee in drafting the legislation.

Mr. TAFT. So the language "State official," in the opinion of the Senator, is broad enough so that it covers what might be considered a local official, such as the local registration authority?

Mr. McGEE. Yes, that is the intent of the legislation.

Mr. TAFT. I thank the Senator.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TAFT. Would it be appropriate, at this point, to ask by unanimous consent that all after line 2 of the amendment presently pending be deleted from the amendment and withdrawn?

The PRESIDING OFFICER (Mr. SAXBE). That would be in order. Does the Senator so desire?

Mr. TAFT. I ask unanimous consent that the language on page 1, line 3, through page 2, line 3, of the amendment be deleted and no longer considered a part of the amendment.

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

Mr. TAFT's amendment—No. 100—as modified, is as follows:

On page 8, line 15, strike out the word "may" and insert in lieu thereof the word "shall".

On page 8, line 17, delete the word "such".

On page 8, line 18, delete the following: "as it deems appropriate".

Mr. TAFT. The part of the amendment which I have not yet discussed would have the effect of assuring that the Voter Registration Administration would give reasonable and expeditious assistance in all cases of alleged fraud reported to it, rather than providing whatever degree of assistance it deems appropriate in each case. The present bill allows the Administration too much administrative discretion—in fact, unlimited administrative discretion—to decide what assistance it will provide to prevent fraudulent registration. The result could be charges, justified or unjustified, of politically motivated action by the Administration.

This amendment helps to assure that the Administration is systematically notified of alleged fraud and involved in fraud prevention activities. Therefore, it provides one more protection to help insure honest elections.

Mr. President, that completes my statement on the amendment. I am glad to yield the floor.

Mr. McGEE. Mr. President, on my own time, let me make only one point.

With regard to what remains, now, of the particular amendment being offered, the only uncertainty on the part of the committee in terms of the sternness of the language requiring the appropriate State official to report to the National Voter Registration Administration acts that would require investigation in the event of fraud, and the only reservation that we had about that, was that if we made it mandatory that they report, a State registrar might be a little slower to appeal for help, for the reason that it might be a doubtful, 50–50 case, and he would not want to make the appeal if he was uncertain. So our hope was that the permissive language might induce him, in case of doubt, to appeal to the Federal Government administration for that kind of assistance to eliminate fraud.

But I am willing to accept the suggestion. As between "shall" and "may," in the matter of the intent of this particular amendment, it is just a matter of degree.

Mr. TAFT. I thank the Senator. The thing that worried me, as I indicated in discussing the amendment a *moment* ago, is that if the word "may" is used, and if the expression is absolute, it seems to me that any person claiming that a State official has reason to believe that there is fraud being attempted or being engaged in could not in any way challenged a State official's refusal to take action. There is no sanction, as I see it, even with the word "shall" involved, to go ahead and prosecute a State official for failing to act. That is not my intention, but without the word "shall," it seems to me that no individual citizen has a right to claim that the officer is engaged in misfeasance or nonfeasance of his public duty and to require by a court mandamus suit that the official contact the Voter Registration Administration. That is the sole intent of the amendment.

Mr. McGEE. Yes. That is perfectly agreeable to me.

Mr. TAFT. I thank the Senator.

The PRESIDING OFFICER (Mr. SAXBE). The *question* is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

AMENDMENT NO. 102

Mr. TAFT. Mr. President, I call up my amendment No. 102 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 6, line 17, after the word "mailed" insert the following: ", using certified mail,".

On page 11, line 20, after the word "postage" insert the following: "and fees".

Mr. TAFT. Mr. President, I appreciate the agreement of the chairman of the committee and the minority member of the committee to the proposals that I have made to date. This one, I understand, is somewhat more controversial.

By way of *notice to Senators* present, and others, I would say that I expect to ask for the yeas and nays on this amendment when there appears to be a sufficient number of Senators in the Chamber to approve the seconding of that motion.

Mr. President, this amendment would require that the notice to a voter indicating that he is registered be sent by certified mail.

I believe that sending these notices by certified mail would substantially reduce fraud under the mail registration system. It would force the postman to deliver the card to the exact address and force someone at that address to take responsibility for accepting it. If a large number of cards were sent to the same address, the postman would certainly notice the kind of establishment located at that address—particularly if it is an unlikely type of establishment to receive voter registration notices because it is probably not the residence of a particular individual, such as a cemetery or a garage. Even though the exact addressee would not have to sign for each

card, the signature requirement would still be a major deterrent against fraud because the signer could be linked as an accomplice to any fraud involving the addressee. The certified mail requirement would also prevent registration notices from "floating around" unclaimed—for example, from simply being left in mailboxes which are accessible to passersby.

The amendment would also help to prevent fraud by election officials, simply because the senders of the certified notices would have a greater chance of getting caught if they participated in attempts to vote or to register an applicant fraudulently.

Mr. President, I want to emphasize that point particularly, because I take with some degree of credibility the statements that this bill, if passed, will not result in a major attempt by citizens to falsely register to vote. Most people are basically honest. We can move on that assumption. The dangers lie, as experience has shown, that fraud could be committed by the individual who is the voting official involved, or by the precinct leaders in particular precincts in the large cities, or by the voting official on a board of elections—they are the ones, if fraud is going to be committed in any significant way, who would falsely registers the voters in large numbers.

This requirement of certified mail would require that when the application comes in to the individual who is to send out the application and to make possible the registration, that person take the responsibility for registering and sending out that certification in the mail; so that if some individual's name on that mail, when it goes out, is not the voter's himself, it is the official's in charge of responding to the original application.

The certified mail approach is in keeping with the bill's aim of placing as little burden as possible on the applicant for registration. In my state, those who register by mail, because they are located out of the county in which they desire to vote, must have their application notarized. In contrast to this approach, which involves a visit to a notary public, the certified mail approach requires only that someone at the designated address sign for the registration notice.

Some will probably argue against this amendment by citing horror stories pertaining to the possibility that the certified mail requirement would overburden the post office and completely undermine its operations.

That is not the view of the Post Office Department itself. The department has informed my staff that it does not expect my amendment, if adopted, to present any crippling problems so far as it is concerned. It has no objection to the amendment.

I realize that this additional protection will not come free. In my estimation, my amendment would have cost $26 million in the 1972 presidential election. But this does not seem to me to be too high a price to pay, if we adopt this method of registration, in order to avoid the possibilities that the election may miscarry as a result of fraud. I believe strongly that as part of any registration system we adopt, we should include all reasonable measures which would protect the democratic process. This amendment is such a measure because of its workability and its potential for stopping abuses of the new registration system.

I urge the Senate to adopt it.

Mr. McGEE. Mr. President, will the Senator from Ohio yield?

The PRESIDING OFFICER (Mr. STEVENS). Does the Senator from Ohio yield to the Senator from Wyoming?

Mr. TAFT. I yield.

Mr. McGEE. I should like to say in regard to the pending amendment, on registering the replies from the registrant, sending them by registered mail, that the committee weighed this one also very carefully. I would feel compelled to oppose it in the legislation, and to say that in light of the tightening up of the procedures on possible fraud that the Senator from Ohio has already introduced in his constructive way, and which we have adopted in this body, it would tend to make it a bit less important to consider this particular amendment.

Even so, the amendment has an understandable base because it reflects the anxiety we all feel about the procedures.

It would seem to the chairman of the committee, however, that a registered mail response of roughly 35 cents is a cost factor that we should be able to afford because this is a very important undertaking, but that probably it does not insure or tighten that much to make it worth the "candle." I say that for the reason that in a registered mail process, as the Senator well knows, anyone can sign for it at the other end, at that residence. It would not tighten that part of it, but it would require that someone be there at that residence which could actually require—theorizing on it for a moment—that several return efforts would have to be made over a period of days on the deliveries in order to get it properly received if, for example, there is only one resident or two at the apartment, and they both had jobs during the time of regular deliveries, and that sort of thing. It is simply that the pending amendment probably does not carry its weight in impact against fraud that the tightening measure already introduced by the Senator from Ohio would have. Thus, I would have to oppose the amendment.

I would also urge, since there are a few more Senators now in the Chamber, that if the Senator would like to ask for the yeas and nays, we can possibly round up some other Senators out in the cloakrooms.

Mr. TAFT. Mr. President, I ask for the yeas and nays on my amendment.

There was not a sufficient second.

Mr. TAFT. Let me respond for just a moment to the remarks of the distinguished Senator from Wyoming.

First, the mail that is involved under this amendment, rather than being registered mail, is certified mail. This involves a far lower cost than registered mail and fewer safeguards—no insurance, armed guards, and so forth—than required by certified mail. The charge by the Post Office Department for certified mail is 30 cents per mailing.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. TAFT. Mr. President, my amendment would not require a certification of the application by the voter. Rather, it would require certification only of the certificate going back to the applicant, giving him the right to present that certificate as his registration to vote when he comes to the polling place.

So that the original mailing sent out by the governmental unit is not certified, nor is the application by the individual certified. Rather, it is simply the actual sending out of the certificate giving the individual the right to vote that would be required to be mailed by certified mail.

Of course, the Senator from Wyoming is correct in saying that under the certified mail procedures, if the certification is sent to an address at which no one is present to sign, the Post Office Department will return it once to that address later. Under the certified mail procedure, if no one was available at the address to sign on the second attempt to deliver, a notice would be left to come to the post office of the address. If no successful delivery or pick-up were made within 15 days after the mail was originally sent, there would be a return of that mail, unclaimed, to the sender, so that it would go back to the Federal officials or to the voting official involved.

Incidentally, the period before elections for which registration is closed, in most States, would provide sufficient time so that we would assure that each individual who made an application and was to receive it by certified mail would have two attempts to deliver to his residence, with notifications and time to pick up the certificate at the post office. It seems to me to be a reasonable and sensible requirement.

Mr. FONG. Mr. President, I rise to oppose the amendment.

We are now adding another $26 million to the approximately $100 million it would cost to send out these cards. To what avail? The address on the certified mail is not the one who must sign for it. In a certified mail delivery, any person at the address can sign for it.

So this is not going to help materially in obviating fraud, and on that basis I oppose the amendment.

The PRESIDING OFFICER. Who yields time?

The question is on agreeing to the amendment of the Senator from Ohio. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

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 California (Mr. TUNNEY) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER)

and the Senator from Wyoming (Mr. HANSEN) are necessarily absent.

The result was announced—yeas 38, nays 57, as follows:

[No. 127 Leg.]

YEAS—38

| | | |
|---|---|---|
| Aiken | Dole | Packwood |
| Baker | Domenici | Percy |
| Bartlett | Dominick | Roth |
| Beall | Ervin | Saxbe |
| Bellmon | Fannin | Scott, Va. |
| Bennett | Griffin | Sparkman |
| Brock | Gurney | Stafford |
| Buckley | Hatfield | Stevens |
| Byrd, Harry F., Jr. | Helms | Taft |
| | Hruska | Thurmond |
| Cook | Mathias | Tower |
| Cotton | McClellan | Weicker |
| Curtis | McClure | Young |

NAYS—57

| | | |
|---|---|---|
| Abourezk | Gravel | McIntyre |
| Allen | Hart | Metcalf |
| Bayh | Hartke | Mondale |
| Bentsen | Haskell | Montoya |
| Bible | Hathaway | Moss |
| Biden | Hollings | Muskie |
| Brooke | Huddleston | Nelson |
| Burdick | Hughes | Nunn |
| Byrd, Robert C. | Humphrey | Pastore |
| Cannon | Inouye | Pearson |
| Case | Jackson | Pell |
| Chiles | Javits | Proxmire |
| Church | Johnston | Randolph |
| Clark | Kennedy | Ribicoff |
| Cranston | Long | Schweiker |
| Eagleton | Magnuson | Scott, Pa. |
| Eastland | Mansfield | Stevenson |
| Fong | McGee | Talmadge |
| Fulbright | McGovern | Williams |

NOT VOTING—5

| | | |
|---|---|---|
| Goldwater | Stennis | Tunney |
| Hansen | Symington | |

So Mr. TAFT's amendment (No. 102) was rejected.

Mr. JAVITS. Mr. President, I yield myself 3 minutes.

Mr. McGEE. Mr. President, will the Senator yield, on my time?

Mr. JAVITS. I yield.

Mr. McGEE. Mr. President, so far as we know on this pending measure, there are no other speakers or amendments that are to be called up that we have been notified about on the two sides.

Mr. BELLMON. Mr. President, I may have an amendment.

Mr. McGEE. Mr. President, I will withdraw the speech I was about to make that we would be able to go to a third reading right away. I thank the Senator for yielding.

Mr. JAVITS. Mr. President, it is well known that I am in favor of the pending bill and I have voted consistently that way right along. I am gratified that the Senate will finally have an opportunity to vote on this measure, which will be a significant step toward increasing voter participation and strengthening our democratic system.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. McGEE. Mr. President, the Senator from Oklahoma had a question.

Mr. BELLMON. Mr. President, I have had a discussion with the author of the bill. I was going to bring up an amendment to try to make it plain that it was the intent of Congress that if the Census Bureau was to use social security identification numbers, it would have to be by permission of the individual involved.

Mr. McGEE. Mr. President, the amendment of the Senator from Ohio has tightened up the process and nailed down the identification.

Mr. BELLMON. In light of that, Mr. President, I will not offer the amendment.

Mr. McGEE. Mr. President, as far as I know, we are ready for third reading.

The PRESIDING OFFICER. If there be no further amendment to be offered, the question is on the engrossment and third reading of the bill.

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

Mr. DOMENICI. Mr. President, today I intend to vote in the negative on S. 352, the Voter Registration Act. I am opposed to this bill because I disagree with its proponents who label it "progressive." On the contrary, although it has an admirable purpose and some desirable features, on the whole, it is no improvement on existing procedures.

This is a conclusion I have not reached on my own. While I agree with the objection outlined by the distinguished Senator from Hawaii (Mr. FONG) in part II of Senate report 93–91, my decision on this bill is based to a large degree on research I have done on the impact this bill would have on registration processes in my home State of New Mexico.

My research has resulted in letters from the two people who are responsible for registration for both major political parties in New Mexico. Both are strongly opposed to the major provisions contained in S. 352 and have urged me to vote against its enactment.

For example, Mrs. Emma Gonzales county clerk of the County of Bernalillo, reports that—

> Two sets of records would have to be maintained. One set would be for national elections, and one for state, local, special, and municipal elections. The result would be additional costs, additional clerks needed, and more room needed for expansion.

Mr. Edward S. Phinney, the top Democratic member of the Bernalillo County Board of Registration reports that—

> The easy accessibility of the post card application could result in duplicate registrations and fraudulent registrations and thereby increase the workload of local registration officials in disposing of them.

I ask unanimous consent that these letters from which I have quoted be printed in their entirety in the CONGRESSIONAL RECORD at the conclusion of my remarks.

Even if it were not for these reports from persons I know and trust and whose opinions I value, the other glaring deficiencies outlined in Senator FONG's minority views convince me that S. 352 is not an appropriate vehicle for achieving the desirable objective of increased voter participation. I join Senator FONG and others opposed to this bill in urging that other efforts be continued to devise a suitable vehicle for achieving greater voter participation.

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

COUNTY OF BERNALILLO,
*Albuquerque, N. Mex., April 30, 1973.*

Sen. PETE DOMENICI,
*U.S. Senate,*
*Washington, D.C.*

DEAR PETE: As custodian of the voter registration records in Bernalillo County, New Mexico, I urge you to vote against S. 352.

I have read the bill and feel that it would cause many hardships with its implementation. We believe that such a bill, as is presently structured, is certainly not necessary. Following are some of the reasons for my objection to said bill:

1. Two sets of records would have to be maintained. One for national elections, one for state, local, special, and municipal elections. Result: additional cost, additional clerks needed, more room needed for expansion.

2. New Mexico State laws provide for deputy registrars. You might say that we have wide open registration since deputy registrars are appointed to handle registrations within the boundaries of their own precincts or wards. They may also register voters anywhere in the county. Deputy registrars contact people in their own precincts who are not on the voter rolls.

3. The bill provides for postcard registration forms to be delivered to postal delivery patrons forty-five (45) days before the close of state voter registration. This would pose a serious problem in that the tremendous influx of applications would be taking place at the last minute.

We would anticipate a tremendous amount of duplications. This will cause extra computer time after so much clerical work has gone into the application. Checking for duplicate, as well as fraudulent registrations, would be an additional burden not only to those charged with the responsibility of maintaining the voter records, but also to the citizen taxpayer.

Again, I urge you to vote against said bill.

Sincerely Yours,

EMMA GONZALES,
*County Clerk.*

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COUNTY OF BERNALILLO,
*Albuquerque, N. Mex., April 30, 1973.*

Hon. PETE V. DOMENICI,
*U.S. Senator,*
*Washington, D.C.*

DEAR SENATOR DOMENICI: I have reviewed the material on S. 352 provided me by your Albuquerque office. Based on an analysis of this material I believe that S. 352 would provide no apparent improvement in the registration process in New Mexico, and could possibly result in degradation of this process for the following reasons:

1. No impediment to registration exists in New Mexico. Residency requirements have been reduced to 42 days before any election at which registration is required. Registration closes 42 days before the election and is open at all other times.

2. Adequate registration officers are available. New Mexico law allows any qualified elector to become a registration officer. Theoretically, New Mexico could have 400,000 registration officers.

3. New Mexico is rapidly converting to computer prepared registration lists for use at the polling place. These lists replace cumbersome books of registration certificates and result in speeding up the time the voter is required to be in the polling place. S. 352 proposes going back to these cumbersome registration certificates at the polling place.

4. Post card application and subsequent registration certificate mailings could possibly overburden a presently less than timely postal delivery system.

5. The availability of trained personnel to handle a complete reregistration every two years is questionable. It takes time to train personnel in the handling of registration materials and in data capture if a computer system is being utilized. Even with ample Federal funding, the utilization of these people would be temporary because their skills are not needed except at registration time.

6. The elimination of personal contact between the voter and the registration officer *would* increase the complexity of the registration procedure.

7. The easy accessibility of the post card application could result in duplicate registrations and fraudulent registrations and

thereby increase the workload of local registration officials in disposing of them.

8. S. 352 would increase the cost of elections which would subsequently increase the tax burden for the taxpayer.

If registration is being denied to citizens or is being made difficult or complex for them, I would recommend that Congress broaden the provisions of the Civil Rights Act.

If the Congress believes S. 352 is absolutely necessary, I recommend that the day of a Federal election be a national holiday, only Federal candidates appear on the ballot, polling officials be provided by the Federal government, and the entire cost of the Federal election be borne by the Federal government.

If I may be of further assistance to you in this matter, please do not hesitate to contact me.

Sincerely,

EDWARD S. PHINNEY,
*Democratic Member.*

SENATOR RANDOLPH SUPPORTS BILL WHICH WILL ASSIST AMERICANS IN THEIR CITIZENSHIP RESPONSIBILITY

Mr. RANDOLPH. Mr. President, we shall vote today on final passage of the Post Card Registration bill. I have been an active participant in this effort within the Post Office and Civil Service Committee and in the Senate to secure enactment of a measure which will aid our citizenry in their exercise of the process of the vote through practical registration practices, and then, and importantly, the use of the ballot which is a franchise of freedom.

The able chairman of the committee, (Mr. MCGEE) and other members, have my thanks for their work to realize our goal.

Mr. President, I voted for cloture on all three occasions. Now we can come to grips with a decision on S. 532. On the rollcall it is my belief that a substantial number of Senators will vote in the affirmative.

Mr. THURMOND. Mr. President, earlier today the Senate voted to end debate on one of the most dangerous pieces of legislation considered by the Congress in many years. By the narrowest margin possible, 67 to 32, rule 22, to invoke cloture, was adopted with regard to S. 352, the Voter Registration Act.

The implicit danger of this legislation is described in the Post Office and Civil Service Committee's own report, as follows:

> By the simple process of filling out a postcard form and mailing it to the local registration agent, the applicant avoids the . . . requirements presently in existence in most states.

Thus the State laws that have been enacted over many years to protect the voting process from fraud, would be simple and expediently avoided. Additionally, this bill would establish another Federal agency in the already bulging Federal bureaucracy—the Voter Registration Administration—at a minimum cost of more than $100 million to operate.

Mr. President, it is clear that this legislation is just another attempt by some Members of Congress to remove voter registration qualifications and procedures from the States. However, in this case the arguments are not that individual civil rights are being violated but that State voter registration laws do not meet the convenience of some of our Nation's eligible voters.

The argument most often propounded in favor of this bill is the low participation by Americans in the voting process. However, there has been no evidence that mass registration will increase turnouts at the polls. To the contrary, conclusions from a 1968 Census Bureau report indicate that 60 percent of those eligible who did not register in the 1968 Presidential election were "not interested, never got around to registering, or disliked politics."

Mr. President, by far the most dangerour aspect of this legislation is that mass registration by postcard would multiply the opportunities for fraud in elections. Postcards would be dispensed at local post offices in the same way that stamps are disbursed, except the registration cards would be free. This raises the very distinct possibility that a card could be sent to every address and placed in every post office box. Thus, it would be almost impossible to control fraudulent registration.

If the Senate passes this dangerous and unnecessary legislation, it is my hope the House will stop it, but if it does not, I hope the President will veto it. I feel that our election process—the cornerstone of our Democratic society—is at stake. Federal intervention in the election process for the sake of convenience is uncalled for and should not be tolerated.

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 legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from California (Mr. TUNNEY), the Senator from South Dakota (MCGOVERN), and the Senator from Kentucky (Mr. HUDDLESTON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Wyoming (Mr. HANSEN) are necessarily absent.

The result was announced—yeas 57, nays 37, as follows:

[No. 128 Leg.]

YEAS—57

| | | |
|---|---|---|
| Abourezk | Gravel | Metcalf |
| Bayh | Hart | Mondale |
| Bellmon | Hartke | Montoya |
| Bentsen | Haskell | Moss |
| Bible | Hathaway | Muskie |
| Biden | Hollings | Nelson |
| Brock | Hughes | Packwood |
| Brooke | Humphrey | Pastore |
| Burdick | Inouye | Pearson |
| Byrd, Robert C. | Jackson | Pell |
| Cannon | Javits | Percy |
| Case | Johnston | Proxmire |
| Chiles | Kennedy | Randolph |
| Church | Long | Ribicoff |
| Clark | Magnuson | Saxbe |
| Cook | Mansfield | Schweiker |
| Cranston | Mathias | Stevenson |
| Eagleton | McGee | Symington |
| Fulbright | McIntyre | Williams |

NAYS—37

| | | |
|---|---|---|
| Aiken | Dominick | Roth |
| Allen | Eastland | Scott, Pa. |
| Baker | Ervin | Scott, Va. |
| Bartlett | Fannin | Sparkman |
| Beall | Fong | Stafford |
| Bennett | Griffin | Stevens |
| Buckley | Gurney | Taft |
| Byrd, Harry F., Jr. | Hatfield | Talmadge |
| | Helms | Thurmond |
| Cotton | Hruska | Tower |
| Curtis | McClellan | Weicker |
| Dole | McClure | Young |
| Domenici | Nunn | |

NOT VOTING—6

| | | |
|---|---|---|
| Goldwater | Huddleston | Stennis |
| Hansen | McGovern | Tunney |

So the bill (S. 352) passed as follows:

S. 352

An act 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

*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 "Voter Registration Act".

SEC. 2. (a) Title 13, United States Code, is amended by adding at the end thereof the following new chapter:

"Chapter II—VOTER REGISTRATION ADMINISTRATION

"Sec.
"401. Definitions.
"402. Establishment.
"403. Duties and powers.
"404. Qualifications and procedure.
"405. Registration forms.
"406. Distribution of registration forms.
"407. Prevention of fraudulent registration.
"408. Penalties.
"409. Financial assistance.
"410. Regulations.
"411. Saving provisions.

"§ 401. Definitions

"As used in this chapter—

"(1) 'Administration' means the Voter Registration Administration;

"(2) 'State' means each State of the United States, the political subdivisions of each State, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the District of Columbia;

"(3) 'Federal office' means the office of the President, the Vice President, an elector for President and Vice President, a Senator, a Representative, or the Delegate to the Congress;

"(4) 'Federal election' means any biennial or quadrennial primary or general election and any special election held for the purpose of nominating or electing candidates for any Federal office, including any election held for the purpose of expressing voter preference for the nomination of individuals for election to the office of President and any election held for the purpose of selecting delegates to a national political party nominating convention or to a caucus held for the purpose of selecting delegates to such a convention;

"(5) 'State election' means any election other than a Federal election; and

"(6) 'State official' means any individual who acts as an official or agent of a government of a State or political subdivision thereof to register qualified electors, or to conduct or supervise any Federal election in a State.

"§ 402. Establishment

"(a) There is established within the Bureau of the Census, Department of Commerce, the Voter Registration Administration.

"(b) The President shall appoint, by and with the advice and consent of the Senate, an Administrator and two Associate Administrators

istrators for terms of four years each, who may continue in office until a successor is qualified. An individual appointed to fill a vacancy shall serve the remainder of the term to which his predecessor was appointed. The Associate Administrators shall not be adherents of the same political party. The Administrator shall be the chief executive officer of the Administration.

"§ 403. Duties and Powers

"The Administration shall—

"(1) establish and administer a voter registration program in accordance with this chapter for all Federal elections;

"(2) collect, analyze, and arrange for the publication and sale by the Government Printing Office of information concerning elections in the United States (but this publication shall not disclose any information which permits the identification of individual voters);

"(3) provide assistance to State officials concerning voter registration by mail and election problems generally;

"(4) obtain facilities and supplies and appoint and fix the pay of officers and employees, as may be necessary to permit the Administration to carry out its duties and powers under this chapter, and such officers and employees shall be in the competitive service under title 5, United States Code;

"(5) appoint and fix the pay of officers and employees for temporary services as authorized under subchapter II of chapter 1 of this title for temporary employees of the Bureau of the Census;

"(6) provide the Congress with such information as the Congress may from time to time request, and prepare and submit to the President and the Congress a report on its activities, and on voter registration and election generally in the United States, immediately following each biennial general Federal election; and

"(7) take such other action as it deems necessary and proper to carry out its duties and powers under this chapter.

"§ 404. Qualifications and Procedure

"(a) An individual who fulfills the requirements to be a qualified voter under State law and who is registered to vote under the provisions of this chapter shall be entitled to vote in Federal election in that State, except that each State shall provide for the registration or other means of qualification of all residents of such States who apply, not later than thirty days immediately prior to any Federal election, for registration or qualification to vote in such election.

"(b) Whenever a Federal election is held in any State, the Administration may, upon the request of any State official, furnish officers and employees and such other assistance as the Administration and the State official may agree upon to assist State officials in the registration of individuals applying to register in that State under the provisions of this chapter.

"§ 405. Registration Forms

"(a) The Administration shall prepare voter registration forms in accordance with the provisions of this section.

"(b) Printed registration forms shall be designed to provide a simple method of registering to vote by mail. Registration forms shall include matter as State law requires and as the Administration determines appropriate to ascertain the positive identification and voter qualifications of an individual applying to register under the provisions of this chapter, to provide for the return delivery of the completed registration form to the appropriate State official, and to prevent fraudulent registration. Registration forms shall also include a statement of the penalties provided by law for attempting fraudulently to register to vote under the provisions of this chapter.

"(c) A registration notification form advising the applicant of the acceptance or rejection of his registration shall be completed and promptly mailed by the State official to the applicant. If any registration notification form is undeliverable as addressed, it shall not be forwarded to another address but shall be returned to the State official mailing the form. The possession of a registration notification form indicating that the individual is entitled to vote in an election shall be prima facie evidence that the individual is a qualified and registered elector entitled to vote in any such election but presentation of the form shall not be required to cast his ballot.

"(d) Registration forms may be prepared in a language other than English.

"§ 406. Distribution of Registration Forms

"(a) The Administration is authorized to enter into agreements with the Postal Service, with departments and agencies of the Federal Government, and with State officials for the distribution of registration forms in accordance with the provisions of this section.

"(b) Any agreement made between the Administration and the Postal Service shall provide for the preparation by the Administration of sufficient quantities of registration forms so that the Postal Service can deliver a sufficient quantity of registration forms to postal addresses and residences in the United States and for the preparation of an ample quantity of such forms for public distribution at any post office, postal substation, postal contract station, or on any rural or star route.

"(c) The Postal Service shall distribute the registration forms to postal addresses and residences at least once every two years not earlier than forty-five days or later than thirty days prior to the close of registration of the next Federal election in each State.

"(d) The Administration is authorized to enter into agreements with the Secretary of each Military Department of the Armed Forces of the United States for the distribution of registration forms at military installations.

"(e) This section shall not be construed to place any time limit upon the general availability of registration forms in post offices and appropriate Federal, State, and local government offices pursuant to agreements made under this section.

"§ 407. Prevention of Fraudulent Registration

"(a) In addition to taking any appropriate action under State law, whenever a Senate official has reason to believe that individuals who are not qualified electors are attempting to register to vote under the provisions of this chapter, he shall notify the Administration and request its assistance to prevent fraudulent registration. The Administration shall give reasonable and expeditious assistance in such cases, and shall issue a report on its findings.

"(b)(1) Whenever the Administration or a State official determines that there is a pattern of fraudulent registration, attempted fraudulent registration, or any activity on the part of any individuals or groups of individuals to register individuals to vote who are not qualified electors, the Administration or a State official may request the Attorney General to bring action under this section. The Attorney General is authorized to bring a civil action in any appropriate district court of the United States or the United States District Court for the District of Columbia to secure an order to enjoin fraudulent registration, and any other appropriate order.

"(2) The district court of the United States or the United States District Court of the District of Columbia shall have jurisdiction without regard to any amount in controversy, of proceedings instituted pursuant to this section.

"§ 408. Penalties

"(a) Whoever knowingly or willfully gives false information as to his name, address, residence, age, or other information for the purposes of establishing his eligibility to register or vote under this chapter, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pays or offers to pay or accepts or offers to accept payment either for registration to vote or for voting, or registers to vote with the intention of voting more than once or votes more than once in the same Federal election shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"(b) Any person who deprives, or attempts to deprive, any other person of any right under this chapter shall be fined not more than $5,000, or imprisoned not more than five years, or both.

"(c) The provisions of section 1001 of title 18, United States Code, are applicable to the registration form prepared under section 405 of this chapter.

"§ 409. Financial Assistance

"(a) The Administration shall determine the fair and reasonable cost of processing registration forms prescribed under this chapter, and shall pay to each appropriate State an amount equal to such cost per card multiplied by the number of registration cards processed under this chapter in that State.

"(b) The Administration is authorized to pay any State which adopts the registration form and system prescribed by this chapter as a form and system of registration to be a qualified and registered elector for State elections in that State. Payments made to a State under this subsection may not exceed 30 per centum of the amount paid that State under subsection (a) of this section for the most recent general Federal election in that State.

"(c) Payments under this section may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

"§ 410. Regulations

"The Administration is authorized to issue rules and regulations for the administration of this chapter. Such regulations may exclude a State from the provisions of this chapter if that State does not require a qualified applicant to register prior to the date of a Federal election.

"§ 411. Saving provisions

"(a) Notwithstanding any other provision of this chapter, any State that adopts the Federal assistance post card form recommended by the Federal Voting Assistance Act of 1955 (50 U.S.C. 1451 et seq.) with respect to any category of its electors (1) shall, insofar as such electors are concerned, be deemeed to be in full compliance with the provisions of section 405 and (2) shall be eligible to receive payments of financial assistance from the Administration, as provided in section 409, on account of the simplified and greater voting opportunities thereby granted to such electors.

"(b) Nothing in this chapter shall be construed to prevent any State from granting less restrictive registration or voting practices or more expanded registration or voting opportunities than those prescribed by this chapter.

"(c) Nothing in this chapter shall be construed to limit or repeal any provision of (1) section 202 of the Voting Rights Act Amendments of 1970 (42 U.S.C. 1973aa–1), relating to expanded opportunities of registering to vote and voting for electors for President and Vice President; or (2) the Federal Voting Assistance Act of 1955 (50 U.S.C. 1451 19, et seq.)."

(b) The table of chapters of title 13, United States Code, is amended by adding at the end thereof the following:

"11. Voter Registration Administration_ 401".

SEC. 3. (a) Section 3202(a) of title 39, United States Code, is amended—

(1) by striking out "and" at the end of clause (4);

(2) by striking out the period at the end of clause (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof;

"(6) mail relating to voter registration pursuant to sections 405 and 406 of title 13."

(b) Section 3206 of title 39, United States Code, is amended by adding the following new subsection:

"(d) The Voter Registration Administration shall transfer to the Postal Service as postal revenues out of any appropriations made to the Administration for that purpose the equivalent amount of postage, as determined by the Postal Service, for penalty mailings under clause (6) of section 3202(a) of this title."

(c) Section 404 of title 39, United States Code, is amended—

(1) by striking out "and" at the end of clause (8);

(2) by striking out the period at the end of clause (9) and inserting in lieu thereof "; and"; and

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

"(10) to enter into arrangements with the Voter Registration Administration, Bureau of the Census, for the collection, delivery, and return delivery of voter registration forms."

SEC. 4. Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(132) Administrator and Associate Administrators (2), Voter Registration Administration, Bureau of the Census."

SEC. 5. There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

Mr. McGEE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McGEE. Mr. President, I only want to take 1 minute, but I just wanted to express my appreciation to a great many people on both sides of the question for their gentlemanly conduct and the thoughtful and constructive approach that they have taken in dealing with this measure.

I particularly want to pay tribute to the members of the committee, to the senior Senator from West Virginia (Mr. RANDOLPH), who did yeoman service here on the floor; to the Senator from North Dakota (Mr. BURDICK), who helped to spell the chairman on these long, long hours on the Senate floor; to the junior Senator from Utah (Mr. Moss) for his assistance on the floor at all times; to the Senator from South Carolina (Mr. HOLLINGS), who likewise devoted long hours to helping perfect the bill and discussing it, with all of its ramifications, with many Members of this body.

Then, on the minority side, I pay tribute to the distinguished ranking minority member of the committee (Mr. FONG), who was always very patient and understanding, even if we disagreed on the bill, and made it possible to move along with dispatch; to the Senator from Alaska (Mr. STEVENS), who is now in the chair, who, as a member of the committee, continually offered his constructive suggestions in connection with the legislation; to the Senator from Oklahoma (Mr. BELLMON), who took his stand as a cosponsor of the legislation and, in the light of his efforts, made a real contribution to the final measure that came out; and finally, to the Senator from Ohio (Mr. SAXBE), who, as the newest member of the committee, helped to expedite the final action on it.

There are others almost too numerous to single out who, by their own efforts, have helped to move this measure along. One of those surely is the Senator from Tennessee (Mr. BROCK), who, in the very beginning, testified in relevant ways, during the committee's careful hearings, on the parts of this legislation that actually were aimed at reducing fraud and at the same time were combined with intensifying citizen participation. His own experience in this State, his experience here in this body, and his new role in this body all finally moved him to be most constructive as we sought to bring out a piece of legislation that might help to close some of the gaps that seem apparent in voter participation in our own country.

There are others whose services could not be described in this short time, such as the majority leader, with his great patience and perseverance in helping us to keep this thing moving along and finally disposing of it, and the majority whip, who made every effort to respect all of the interests on both sides, and yet exercise his determination to do what he thought was right in his responsible role as the assistant majority leader.

Finally, I would have to mention the Senator from California (Mr. CRANSTON), who receives no acclaim in any public way, who runs around with a pencil and a computer—which is his mind—and keeps a complete record on everyone's past voting record, future voting record, and apparently even their innermost thoughts, as we have sought to try to understand the misgivings some Senators had, and the inclinations as to voting that they ultimately expressed. Without that kind of total, energetic, and tireless involvement, it would be very difficult for anyone in this kind of undertaking in legislation to try to move on.

So, with those comments, Mr. President, I want to express my appreciation to this body. I believe the Senate revealed here today its capability of standing up and being counted, in spite of differences of opinion about the substance of merit of particular bits of legislation.

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

Mr. ROBERT C. BYRD. Mr. President, before yielding, will the Senator yield to me for a unanimous-consent request?

Mr. McGEE. Mr. President, I yield to the majority whip for a unanimous-consent request.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order at this time to order the yeas and nays on S. 590, introduced by the Senator from Illinois (Mr. PERCY). It is my understanding that he wants the yeas and nays ordered on that measure.

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

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. McGEE. Mr. President, I yield to the Senator from Tennessee.

Mr. BROCK. I appreciate the Senator's yielding.

Mr. President, as usual, the Senator from Wyoming is too gracious in his compliments of others and understates his own case; but there is no Member of this body who is more responsible for this legislation than the Senator from Wyoming. He has done, I think, a uniquely fine job. He has conducted himself with a great deal of dignity and a great deal of understanding and compassion for those who might have disagreed with him, and I commend him for a job well done.

Mr. McGEE. I thank my colleague for his warm remarks.

Mr. FONG. Mr. President, I rise to thank the distinguished chairman of the committee for his patience, for his understanding, and for the work that he has done on this bill. Although we disagreed very strongly on the provisions of the bill—we of the minority do not believe the bill is going to do the job—we still want to pay tribute to the Senator from Wyoming for his understanding, for his courtesy, and for his patience.

I commend the members of the committee, both on the majority and on the minority, for helping us to bring to the floor the bill which has just passed. I think we have not yet seen the last of this measure, and I presume we will have a chance again to debate it on the floor of the Senate; but whatever may be its outcome in the final analysis, I want to say that the minority has put up a very good fight; the majority has won; and I pay my tribute to the Senator from the great State of Wyoming, and also to the staff members who helped so very much in presenting this bill: Mr. David Minton, who has worked so very hard on the bill—I understand he will not be with us much longer; he is going downtown to enter the private practice of law. He has been a very competent staff director and counsel. I have valued his judgment and advice and I wish him great success—and also Mr. Clyde DuPont on the minority, worked tirelessly on this bill and who has helped us tremendously.

Again, Mr. President, my appreciation to the Senator from Wyoming for his courtesy and patience.

Mr. McGEE. Mr. President, I have wanted to make a special statement in regard to the chief counsel and director of the committee. This is his last moment as a member of the Senate committee staff. This act today will now officially separate him, so that he might go into the private practice of law.

I must say that all who have known him and worked with him have found that dependability and thoroughness in understanding the multitude of overlaps and labyrinths and mysteries that interlace the federal system somehow seem to have been mastered by him, in sorting them out and making them take on meaning in these years; and believe me, it is going to leave a massive gap on the committee staff. I say that with all due respect to those who will

succeed him, because they would be the first to attest to that gap. I hope they are able to close the gap as rapidly as he did when he was a young fellow.

But now, in his tender "old age," he can look back as an elder statesman on a path strewn with many significant pieces of legislation which have enhanced the role of Federal employees, which have, hopefully at least, laid the foundations for a new postal structure that, given its time, and the chance to proceed during that time, will be destined to become an effective system.

Mr. President, the Senate will lose one of its most valuable and devoted employees this month when David Minton, for the last 4 years staff director and counsel of the Post Office and Civil Service Committee, leaves the staff to enter private law practice here in Washington. In fact, Government itself will suffer a loss. He is a Democrat, but his deepest and strongest motivation stems from a vigorous, nonpartisan dedication to good government. I personally will miss his logical and persuasive advice and counsel.

David Minton began his Senate career in 1962 as a research assistant on the committee whose chairman was then the late Senator Olin D. Johnston, of South Carolina. He moved rapidly from assignments in routine committee business to legislation, where his ability to perceive the real question at issue and to make that question clear to others attracted the attention of the chairman and other committee members. He studied the history of postal and Federal employee legislation, noted trends, and advocated changes.

Upon the death of Senator Johnston, Minton was named committee counsel by former Senator A. S. "Mike" Monroney, Senator Johnston's successor. During the years between 1965 and 1969, with increased legislative responsibility, he became what is in Washington today a rare bird—a lawyer thoroughly conversant with the intricacies and details of postal and civil service law. This is a truly complex field where expertness is frequently limited to one or two areas. Few can claim complete mastery. I think Minton comes as close as anyone.

David Minton has served as staff director and counsel since my appointment as chairman in 1969, bringing to his job an explosive sense of humor, sound legislative background, political savvy, and a very effective brand of Texas diplomacy. He is a native of Denton, Tex., and a graduate of North Texas State University. He holds a masters degree in history and an LL.B. degree from the University of Texas.

During his career on the committee staff, he has worked on legislation involving money in the hundreds of millions. Yet, he says, in looking back, he is most gratified by his part in advising the committee on the survivor's annuity provisions of the Civil Service Retirement Amendments of 1969. These provisions, which I introduced, were not very costly to the Government. Affecting only a few hundred families a year, they are not what we would consider a major legislative achievement. They liberalized the survivor annuity benefits of the widows and children of certain deceased Federal employees, raising their benefits from a pittance to sums which substantially help them get along.

David Minton's work on the Postal Reorganization Act of 1970 to make truly independent the Postal Rate Commission—the regulatory agency succeeding Congress as the Nation's postal ratemaker—will be long remembered by students of the act. For hindsight shows that a strong stand to insure the independence of this body was the right stand. The establishment of the independent Rate Commission has been demonstrated to be one of the measure's wisest provisions. Those of us on both sides of the aisle who worked to insure the independence of the Commission will recall David Minton's advice on this really important issue.

Mr. President, I join David Minton's many other friends on Capitol Hill, in the Civil Service Commission, in the Postal Service, and everywhere our committee work is observed in wishing him success in his new position. We will miss him.

Mr. RANDOLPH. Mr. President, it has been my privilege to know and evaluate the knowledgeable and certainly the diligent work of David Minton as the staff director of our committee, so ably chaired by the distinguished Senator from Wyoming (Mr. McGEE) of the Post Office and Civil Service Committee.

It is not just a pleasantry for me to stand in this Chamber, but a privilege to join my colleagues, the Senator who chairs the committee, and the Senator who is the ranking minority member of the committee, and have, for the RECORD, the facts spelled out by the words we speak, of our genuine appreciation for, in a sense, the counsel which has been given to us, as Members, by David through the years.

It is in nowise a partisan approach that he has taken to matters on our legislative agenda. He has made his talents available to all the members of the committee. We are a small committee from the standpoint of numbers in membership, being as small as any standing committee of the Senate. We are rather like a family. Yet, within the structure of the committee, there has come to all of us that feeling that Dave, when we call him to come and talk with us, or when we ask for his counsel in our sessions, executive and otherwise, was always eager and never reluctant to share his expertise.

In his new assignments, private rather than public in nature, I am sure that all of us wish for him continued success and service.

## ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, May 9, 1973, he presented to the President of the United States the enrolled bill (S. 1379) to authorize further appropriations for the Office of Environmental Quality, and for other purposes.

## ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER (Mr. BROOKE). There is no pending business before the Senate at the moment.

Mr. MANSFIELD. I thought that S. 607 would come down automatically?

The PRESIDING OFFICER. That was only if the cloture motion failed.

Mr. MANSFIELD. I thank the Chair.

## AMENDMENT OF LEAD-BASED PAINT POISONING PREVENTION ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 121, S. 607, which I understand has been cleared on both sides.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 607, to amend the Lead-Based Paint Poisoning Prevention Act, and for other purposes.

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 from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

That (a) section 101(a) of the Lead Based Paint Poisoning Prevention Act is amended by striking out "units of general local government in any State" and inserting in lieu thereof "public agencies of units of general local government of any State and to private nonprofit organizations in any State".

(b) Section 101(b) of such Act is amended by striking out "75 per centum" and inserting in lieu thereof "90 per centum".

(c) Section 101 of such Act is amended by adding at the end thereof the following new subsection:

"(e) The Secretary is also authorized to make grants to State agencies for the purpose of establishing centralized laboratory facilities for analyzing biological and environmental lead specimens obtained from local lead based paint poisoning detection programs.".

(d) Section 101 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) No grant may be made under this section unless the Secretary determines that there is satisfactory assurance that (A) the services to be provided will constitute an addition to, or a significant improvement in quality (as determined in accordance with criteria of the Secretary) in, services that would otherwise be provided, and (B) Federal funds made available under this section for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the program described in this section, and will in no event supplant such State, local, and other non-Federal funds.".

SEC. 2. (a) Section 201 of the Lead Based Paint Poisoning Prevention Act is amended by striking out "units of general local government in any State" and inserting in lieu thereof "public agencies of units in general local government in any State and to private nonprofit organizations in any State".

(b) Section 201(a)(2) of such Act is amended to read as follows:

"(2) the development and carrying out of procedures to remove from exposure to young children all interior surfaces of residential housing, porches, and exterior surfaces of such housing to which children may be commonly exposed, in those areas that present a high risk for the health of residents because

of the presence of lead based paints. Such programs should include those surfaces on which nonlead based paints have been used to cover surfaces to which lead based paints were previously applied; and".

(c) Section 201 of such Act is amended by adding at the end thereof the following new subsection:

"(c) Any public agency of a unit of local government or private nonprofit organization which receives assistance under this Act shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for purposes of audit and examination, any books, documents, papers, and records that are pertinent to the assistance received by such public agency of a unit of local government or private nonprofit organization under this Act."

SEC. 3. Section 301 of the Lead Based Paint Poisoning Prevention Act is amended to read as follows:

"FEDERAL DEMONSTRATION AND RESEARCH PROGRAM

"SEC. 301. (a) The Secretary of Housing and Urban Development, in consultation with the Secretary of Health, Education, and Welfare, shall develop and carry out a demonstration and research program to determine the nature and extent of the problem of lead based paint poisoning in the United States, particularly in urban areas, including the methods by which the lead based paint hazard can most effectively be removed from interior surfaces, porches, and exterior surfaces of residential housing to which children may be exposed.

"(b) The Secretary of Health, Education, and Welfare shall conduct appropriate research on multiple layers of dried paint film, containing the various lead compounds commonly used, in order to ascertain the safe level of lead in residential paint products. No later than October 1, 1973, the Secretary shall submit to Congress a full and complete report of his findings and recommendations as developed pursuant to such programs, together with a statement of any legislation which should be enacted or any changes in existing law which should be made in order to carry out such recommendations.

SEC. 4. (a) Title III of the Lead Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.) is amended—

(1) by adding at the end thereof the following:

"FEDERAL HOUSING ADMINISTRATION REQUIREMENTS

"SEC. 302. The Secretary of Housing and Urban Development (hereafter in this section referred to as the 'Secretary') shall establish procedure to eliminate as far as practicable the hazards of lead based paint poisoning with respect to any existing housing which may present such hazards and which is covered by an application for mortgage insurance or housing assistance payments under a program administered by the Secretary. Such procedures shall apply to all such housing constructed prior to 1950 and shall as a minimum provide for (1) appropriate measures to eliminate as far as practicable immediate hazards due to the presence of paint which may contain lead and to which children may be exposed, and (2) assured notification to purchasers of such housing of the hazards of lead based paint, of the symptoms and treatment of lead based paint poisoning, and of the importance and availability of maintenance and removal techniques for eliminating such hazards. Such procedures may apply to housing constructed during or after 1950 if the Secretary determines, in his discretion, that such housing presents hazards of lead based paint. The Secretary may establish such other procedures as may be appropriate to carry out the purposes of this section. Further, the Secretary shall establish and implement procedures to eliminate the hazards of lead based paint poisoning in all federally owned properties prior to the sale of such properties when their use is intended for residential habitation."; and

(2) by inserting after "PROGRAM", in the caption of such title, a semicolon and the following: "FEDERAL HOUSING ADMINISTRATION REQUIREMENTS".

(b) The amendments made by subsection (a) of this section become effective upon the expiration of ninety days following the date of enactment of this Act.

SEC. 5. Section 401 of the Lead Based Paint Poisoning Prevention Act is amended to read as follows:

"PROHIBITION AGAINST USE OF LEAD-BASED PAINT IN CONSTRUCTION OF FACILITIES AND THE MANUFACTURE OF CERTAIN TOYS AND UTENSILS

"SEC. 401. The Secretary of Health, Education, and Welfare shall take such steps and impose such conditions as may be necessary or appropriate—

"(1) to prohibit the use of lead based paint in residential structures constructed or rehabilitated by the Federal Government, or with Federal assistance in any form, after the date of enactment of this Act, and

"(2) to prohibit the application of lead based paint to any toy, furniture, cooking utensil, drinking utensil, or eating utensil manufactured and distributed after the date of enactment of this Act."

SEC. 6. Section 501(3) of the Lead Based Poisoning Prevention Act is amended to read as follows:

"(3) the term 'lead based paint' means—

"(A) prior to December 31, 1973, any paint containing more than five-tenths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of liquid paints or in the dried film of paint already applied;

"(B) after December 31, 1973, any paint containing more than six one-hundredths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of liquid paints or in the dried film of paint already applied, except that if prior to December 31, 1973, the Secretary, based on studies conducted in accordance with section 301(b) of this Act, determines that another level of lead, not to exceed five-tenths of 1 per centum, is safe, then such other level shall be effective after December 31, 1973.".

SEC. 7. (a) Section 503(a) of the Lead Based Paint Poisoning Prevention Act is amended (1) by striking out the word "and" and inserting in lieu thereof a comma, and (2) by inserting before the period a comma and the following: "and $30,000,000 for the fiscal year ending June 30, 1974, and for each of the next three succeeding fiscal years".

(b) Section 503(b) of such Act is amended (1) by striking out the word "and" and inserting in lieu thereof a comma, and (2) by inserting before the period a comma and the following: "and $40,000,000 for the fiscal year ending June 30, 1974, and for each of the next three succeeding fiscal years".

(c) Section 503(c) of such Act is amended (1) by striking out the word "and" and by inserting in lieu thereof a comma, and (2) by inserting before the period a comma and year ending June 30, 1974 and for each of the the following: "and $5,000,000 for the fiscal next three succeeding fiscal years".

(d) Section 503(d) of such Act is amended by striking out all matter after the semicolon and inserting in lieu thereof "any amounts authorized for one fiscal year but not appropriated may be appropriated for the succeeding fiscal year,".

(e) Title V of the Lead Based Paint Poisoning Prevention Act is amended by adding at the end thereof the following new sections:

"ELIGIBILITY OF CERTAIN STATE AGENCIES

"SEC. 504. Notwithstanding any other provision of this Act, grants authorized under sections 101 and 201 of this Act may be made to an agency of State government in any case where State government provides direct services to citizens in local communities or where units of general local government within the State are prevented by State law from implementing or receiving such grants or from expending such grants in accordance with their intended purpose.

"ADVISORY BOARDS

"'SEC. 505. (a) The Secretary of Health, Education, and Welfare, in consultation with the Secretary of Housing and Urban Development, is authorized to establish a National Childhood Lead Based Paint Poisoning Advisory Board to advise the Secretary on policy relating to the administration of this Act. Members of the Board shall include residents of communities and neighborhoods affected by lead based paint poisoning. Each member of the National Advisory Board who is not an officer of the Federal Government is authorized to receive an amount equal to the minimum daily rate prescribed for GS–18, under section 5332, title V, United States Code, for each day he is engaged in the actual performance of his duties (including traveltime) as a member of the Board. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

"(b) The Secretary of Health, Education, and Welfare, in consultation with the Secretary of Housing and Urban Development, shall promulgate regulations for establishment of an advisory board for each local program assisted under this Act to assist in carrying out this program. Two-thirds of the members of the board shall be residents of communities and neighborhoods affected by lead based paint poisoning. A majority of the board shall be appointed from among parents who, when appointed, have at least one child under six years of age. Each member of a local advisory board shall only be reimbursed for necessary expenses incurred in the actual performance of his duties as a member of the board."

SEC. 8. Section 314(e) of the Public Health Service Act is amended by inserting at the end thereof the following new paragraph:

"No funds appropriated pursuant to the authorization of this subsection shall be available for lead based paint poisoning control of the type authorized under the Lead Based Paint Poisoning Prevention Act (84 Stat. 2078)."

Mr. KENNEDY. Mr. President, I urge the Senate to approve S. 607, because it amends Public Law 91–695—the Lead-Based Paint Poisoning Prevention Act—to provide $300 million over the next 4 years in the battle against childhood lead poisoning. This is essentially the same measure unanimously approved by the Senate last June. Only because Congress adjourned before the House could act on this measure, are we faced with the need to act again at this time.

There are two compelling reasons why the Senate must enact legislation to continue the fight against childhood lead-based paint poisoning.

First—we know how to treat and cure sick children who are lead poisoned. All we need to do is go out and find the children who have high blood lead levels. Once we find them, doctors can treat them and prevent the damage caused by neglect and inadequate care.

The second reason why we must continue Federal support to combat this disease is equally compelling. We need this legislation, because we know how to prevent lead-based paint poisoning. Children get sick when they swallow small chips of peeling paint from the walls of deteriorating homes that have been covered with paints containing lead or lead compounds. Furniture, eating

utensils, and toys are also known as the source of lead poisoning in children. By removing lead from paint on surfaces accessible to young children, the hazards of lead-based paint poisoning are eliminated.

The bill before the Senate today—S. 607—was unanimously approved by the Health Subcommittee and the full Committee on Labor and Public Welfare. It authorizes $75 million each year until 1977 to support Federal programs that will begin to curb the damage caused by this disease. These are programs that will extend the services currently authorized under Public Law 91-695, enacted in January 1971.

Under this bill $30 million is authorized for the Department of Health, Education, and Welfare to continue awarding grants to local community organizations, both public and private—for screening and testing young children who may be lead sick.

The bill also authorizes $40 million a year for the Department of Health, Education, and Welfare to make grants to public and private organizations to continue with the attack to eliminate the hazards of lead-based paint poisoning. Physicians know that while early treatment can erase the effects of lead intoxication, it does no good to hospitalize a child for lead sickness and, after treatment, return him to the same conditions that caused the disease in the first place.

Although dwellings that are most likely to present a hazard for lead poisoning are also confronted with problems of sanitation and general disrepair it is essential that we begin to eliminate the threat of lead poisoning wherever possible.

We know that many materials and techniques are available to cover up those surfaces that have been coated with lead-based paints. But, the most efficient and effective method for completing that task is the target of continuing study. For that reason—this bill authorizes $5 million a year for the Department of Housing and Urban Development and the Department of Health, Education, and Welfare to research the nature and extent of the problem of lead poisoning and to determine methods for effectively removing the hazard of lead poisoning from interior residential surfaces.

During hearings before the Health Subcommittee last year, representatives of the paint industry expressed their concern for defining feasible limits of lead contained in residential paints. As a result, the committee approved an amendment authorizing the Department of Health, Education, and Welfare to continue research on the various lead compounds commonly used in paints and to report to the Congress any results that may affect the provisions of this act.

Young children are sickened today, because of lead used in paints applied to homes 30 to 40 years ago. For that reason this legislation is primarily designed to seek relief for their suffering. Since we know, however, that the elimination of lead in paint can prevent the spread of this disease to future generations of American children and in that way we can reduce the recurrence of the disease in children who are sick today, this bill would require a limit of 0.06 percent lead content in paints intended for interior residential surfaces. Under this bill, the new limit would go into effect January 1, 1974. In the meantime, the Department of Health, Education, and Welfare is conducting studies to verify the lower limit. Existing FDA regulations require interior residential paints to contain no more than 0.5 percent lead. The committee accepted an amendment authorizing the lower limit to be enacted by January 1, 1974, unless the ongoing health, education, welfare studies provide results, submitted to the Congress by October 1, 1973, that justify a different level.

During 1971, the Bureau of Community Environmental Management—the office within the Department of Health, Education, and Welfare that has primary responsibility for lead poisoning programs—conducted neighborhood surveys in 27 cities across the country to lead levels of children in high-risk areas. school-age children.

During that survey, Federal health experts examined 2,309 children in 999 homes in such cities as Nashua, N.H., Salt Lake City, Utah, and Spokane, Wash. At least 73 percent of those homes were found to have at least one interior surface with a very high lead content. And, up to 95 percent of those homes proved hazardous when the exterior surfaces were examined. Not surprisingly therefore, 9 percent of the children in this survey were found to have elevated blood lead levels. This is an alarming rate of incidence for any disease.

Medical records show that today's cases of childhood lead poisoning are 10 times greater than those of polio when that disease was a dreaded national epidemic. Our Nation committed the resources needed to conquer polio. We must begin now to do the same for lead poisoning.

Last January, lawyers representing the Philadelphia coalition against childhood lead paint poisoning, presented statistics to a Federal judge showing 89 deaths in that city between 1950 and 1970, attributable to lead paint poisoning. Based on that data and other evidence U.S. District Judge Donald W. Van Artsdalen ruled that the danger to children from lead-based paint is immediate and continues each day that HUD sells a house. Thus, the judge ordered the removal of all lead-based paint in 1,200 federally owned residences in Philadelphia.

The costs of lead poisoning are borne by the whole community. This malady produces tragic wastes of human resources, institutionalization of victims, and mounting burdens on municipal health facilities and finances. No one benefits from lead poisoning except owners of deteriorating property who find it unprofitable to keep their properties in good repair.

At least 400,000 children suffer with lead poisoning.

Only 12,000 to 16,000 children actually receive treatment, and half of them are left mentally retarded.

About 200 young children die from lead poisoning each year.

Though lead-based paint poisoning accounts for only 5 percent of all accidental poisonings of preschool children, this disease accounts for up to 70 percent of all deaths due to poisoning among preschool-age children.

Ten years following the signing of the Declaration of Independence, Benjamin Franklin recorded his long experience with the effects of lead poisoning. In a letter to a close friend in July 1786, he complained that—

> This mischievous effect from lead is at least above sixty years old; you will observe with concern how long a useful truth may be known and exist before it is generally received and practiced on.

Though the "useful truth" about lead-based paint poisoning in children has been known for much of the time since Mr. Franklin wrote those words, we have not yet "generally received or practiced on" that knowledge. It would indeed be gratifying if substantial successes against childhood lead poisoning will have been achieved before the 200th anniversary of the Nation's celebration of independence.

I strongly urge every Member of this Senate to vote for S. 607, which amends the Lead-Based Paint Poisoning Prevention Act. With the approval of this measure we can continue the Federal fight against this needless, but tragic, disease.

Mr. SCHWEIKER. Mr. President, on the Calendar of Business of the Senate is S. 607, a bill to amend the Lead-Based Paint Poisoning Prevention Act. This bill will enable us to continue and increase the attack on the terrible disease of lead-based paint poisoning. I urge my colleagues in the Senate to pass it.

Lead paint poisoning is a totally preventable disease which has been recognized as a serious health hazard only within recent years. In many parts of our country, particularly in deteriorating areas of our cities, the disease is nearly epidemic in proportion. Tragically, the victims of this preventable disease are almost invariably children. Nearly 400,000 children are affected by lead paint poisoning each year and another 200 less fortunate children are killed by this disease annually. Those children who do survive the disease often never fully recover. Repeated ingestion of lead-painted substances can lead to mental retardation, cerebral palsy, optic atrophy, and impairment of intellectual ability. The most common victims of this disease are children between the ages of 1 and 6. Many of the small children affected by lead paint can be helped if their condition is promptly diagnosed and treated.

Of course, the treatment accomplishes little if the children are again confronted by lead paint when they return to their homes after having received medical attention.

An example of the need for this legislation was recently shown in Philadelphia, where the Television and Radio Advertising Club of Philadelphia sponsored an outstanding public service campaign to alert people to the dangers of lead paint poisoning. From January 15 through February 2, 1973, nearly every radio and television station made periodic an-

nouncements and reports on the dangers of lead paint in older housing and warned residents of such housing their children could be exposed to lead paint. Public service announcements and comments by well-known public affairs and news personnel on the radio and television stations were included in the lead paint information campaign. I was pleased to take part in this campaign.

In addition to altering the citizens of Philadelphia to possible dangers of lead paint poisoning, the television and radio campaign publicized a telephone number of the public health service of Philadelphia, and encouraged any parents who were concerned about the possibility of their children having lead paint poisoning to call that number for information about how to receive free lead paint poisoning tests. Numerous people responded to this announcement and did contact the health department. The statistics are illuminating.

The city health department received 2,211 calls as a result of the campaign and expected to test 3,800 children. By the end of March the city had tested 1,362 children and found that 378 of them had elevated blood lead levels, a symptom of lead paint poisoning.

These figures reveal the dimensions of this preventable disease. Nearly 30 percent of the children tested as a result of the project sponsored by the Television and Radio Advertising Club of Philadelphia had signs of lead poisoning. These results are comparable to the findings of the city in its own lead paint program, where just over 30 percent of all the children tested in the city were found to have signs of lead poisoning. Those children who are tested receive medical treatment immediately and in most cases can be saved from the deadly results of this tragic disease. The alarming fact is that even with this special media campaign only several thousand children have been tested and treated. This means that there are still hundreds of thousands of children in Philadelphia alone who are at risk and who have not been tested or treated. As many as 30 percent of these children could have signs of lead poisoning, which, if left untreated, could destine them for a life of impaired mental and physical abilities or worse.

Philadelphia is only one of the cities in Pennsylvania and throughout the country where lead paint poisoning is a serious and largely untreated menace. The experience there underlines the need for the legislation which the Senate will consider today to expand our ability to deal with this childhood hazard.

I want to publicly commend the Television and Radio Advertising Club of Philadelphia, and the club's president, Eugene McCurdy, general manager of WPVI–TV, for initiating and carrying out this important lead paint poisoning campaign. It was an impressive public service, with considerable benefit to the citizens of Philadelphia.

I have long been concerned with the need to provide a solution and an end to the very serious problem of lead paint poisoning. In the 91st Congress, I introduced legislation to provide civil penalties for the use of lead-based paint in certain dwellings. I was gratified when the prohibition of the use of lead-based paint was adopted as an amendment to the Housing and Urban Development Act of 1970.

The signing into law of the Lead-Based Paint Poisoning Prevention Act on January 13, 1971, a bill which I strongly supported in the Labor and Public Welfare Committee and on the Senate floor, enabled the Federal Government to assist communities in diagnosing, treating, and preventing lead paint poisoning. The bill which we are now considering will markedly increase the scope and effectiveness of this effort. Also, I am pleased that the committee has incorporated in the bill two amendments which I offered. One is to prohibit the application of lead-based paint to any toy, furniture, cooking utensil, drinking utensil, or eating utensil. The other requires that in certain housing sold or insured by the Federal Housing Administration, the property be inspected for lead-based paint to which children may be exposed, and the hazard removed.

This bill deserves the full support of the Senate, and I am hopeful that we might count on its early passage by the House and enactment.

Mr. BEALL. Mr. President, as a member of the Health Subcommittee, I strongly support S. 607, the Lead-Based Paint Poisoning Amendments of 1973.

The legislation authorizes $75 million for each of the next 4 years for an expanded effort to prevent lead-based poisoning and to detect youngsters with lead poisoning so that they might receive the proper medical attention.

The $75 million would be divided as follows: $30 million for testing and screening purposes; $40 million for a hazard elimination program; and $5 million for research and demonstration programs.

Lead-based paint poisoning is a serious problem to many of the Nation's children, particularly to children living in housing built prior to the 1940's, when lead-based paint was commonly used for interior purposes. Such housing is often prevalent in inner-city areas.

The sad fact is that lead-based paint poisoning according to testimony from Dr. J. Julian Chisolm of Baltimore, probably the leading expert in the country in lead-based poisoning, is entirely preventable and if detected early enough, is entirely curable.

S. 607 restricts the allowable limits of lead in paints by writing into the law the 0.5 percent lead content limit established by the Food and Drug Administration's regulations which became effective January 1 of this year and by requiring a lower lead content level of 0.06 percent, effective January 1, 1974. Although there was considerable testimony with respect to the need for the lower limit, there was also considerable concern expressed, particularly by smaller paint manufacturers, with the lower limit.

The committee reached a compromise in this provision by legislating the lower limit effective in 1974, but also providing that if the HEW study demonstrated that the lower limit was not needed, that a different level could be established. However, *in no event could the content level* exceed 0.5 percent.

The lead poisoning screening provisions are critical because, undetected, both physical and mental damage and even death to children can result. For over a year now I have been working with the administration and Dr. Chisolm in an effort to persuade the administration to permit the use, at least on an experimental basis, of a pinprick screening test for childhood lead poisoning, developed by Dr. Chisolm. This is most important for the test presently employed is difficult to perform and costs about $25 per child. On the other hand, Dr. Chisolm's test can be done on the spot and costs about $1.

As the Baltimore News American commented in an editorial, this cost "is low enough to allow health agencies to step up the pace of detection programs in a meaningful way." I considered offering an amendment to the pending bill, while it was in committee, to authorize this test. In lieu of this, however, Senator KENNEDY agreed to meet with HEW officials and me to see if we could secure approval of the test. Following the meeting, Senator KENNEDY and I wrote Secretary Weinberger on this matter and I am pleased that the Secretary, in a March 27 letter to me, indicated that—

> We concur with the recommendations that a full field demonstration of the protoporphyrin test should be carried out to determine its value as an effective and economical method for screening . . . because of the potential cost effectiveness of this test, if it can be validated in field use, I am requesting the Office of the Assistant Secretary for Health to explore possible sources of support for adequate demonstration and evaluation.

I ask unanimous consent that the exchange of letters between the Secretary and Senator KENNEDY and myself be included in the RECORD along with an editorial from the Baltimore News American.

I am hopeful that the department will find funds to enable Baltimore to experiment on this new test.

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

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
*Washington, D.C., March 27, 1973.*

Hon. J. GLENN BEALL, Jr.,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR BEALL: Thank you for your letter of February 22 which was co-signed by Senator Kennedy, in which you urge a full scale field demonstration of Dr. Chisholm's pin prick screening test for childhood lead poisoning.

We selected a macro blood lead measurement as the test for use in child screening programs because this test accurately measures blood lead directly over the entire significant range—say, upward from about 10 micrograms of lead per milliliter of whole blood to at least 100 micrograms per milliliter. (The threshold of medical concern is about 40 micrograms of lead per milliliter of whole blood, and a blood level of 80 micrograms per milliliter or more establishes unequivocal lead poisoning.) Dr. Chisholm's protoporphyrin test, an indirect test which measures an organic metabolic product resulting from lead absorption (rather than measuring metallic lead), was rejected because close correlation of test results with blood lead levels could not be achieved at levels below 60 micrograms of lead per 100 milliliters of whole blood.

We have worked closely with Dr. Chisholm and are aware of his improvements to the pro-

toporphyrin test which have brought the accuracy threshold down to 50 micrograms of lead per 100 milliliters of blood. This improvement greatly enhances the potential utility of the test as a substitute for direct blood lead measurement in screening programs. We concur with your recommendation that a full field demonstration of the protoporphyrin test should be carried out to determine its value as an effective and economical method for screening.

We need to maintain uniform standards for communities supported under the grant programs; thus, until the practicality of Dr. Chisholm's test has been demonstrated in general use, we cannot rewrite the grant regulations to permit or encourage its use in all forty grant communities. We believe it is essential to conduct and evaluate a field demonstration of the protoporphyrin test simultaneously with direct blood lead measurements to demonstrate its scientific accuracy as well as its effectiveness and economic advantages in general community use. Because of the potential cost-effectiveness of this test, if it can be validated in field use, I am requesting the Office of the Assistant Secretary for Health to explore possible sources of support for adequate demonstration and evaluation.

Your continuing interest in the childhood lead poisoning prevention program is very much appreciated.

Sincerely,

CASPAR W. WEINBERGER,
*Secretary.*

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FEBRUARY 22, 1973.

Hon. CASPAR W. WEINBERGER,
*Secretary, Department of Health, Education, and Welfare, Washington, D.C.*

DEAR MR. SECRETARY: For some time, we have been concerned about the HEW standards for screening children for possible lead paint poisoning. In view of the limitations on funding for this very worthwhile effort, one would expect to find HSMHA actively seeking alternatives to the expensive and tedious blood lead test which is now used. But this apparently is not the case.

Dr. J. Julian Chisolm of Baltimore is probably our nation's leading authority on lead paint poisoning among children. He has published numerous articles, testified before the Senate Health Subcommittee and been appointed by President Nixon as an adviser on the subject. He also has developed a simple and inexpensive pin-prick test for lead poisoning. It compares favorably with the conventional blood lead test, which, incidentally, he helped develop for HEW following passage of PL 91-695, the Lead Paint Poisoning Prevention Act.

Last year, the Baltimore City Health Department was denied permission to use Dr. Chisolm's test for its screening program of inner city children, even after the city's request was cut from $329,000 to $150,000. The reduced funding and requirement to use the more expensive testing procedure meant that only about 20 per cent of the children would be tested. When Senator Beall wrote to HEW about this decision, Secretary Richardson replied that for various reasons, it was "not yet an acceptable method for grant supported programs."

In light of subsequent developments which strongly indicated that Dr. Chisolm's method was achieving comparable results, this matter was brought to the attention of the Health Subcommittee in January when we considered S. 607, to set standards on lead content in paint. The subcommittee concurred that this was a subject deserving further investigation, so Dr. Chisolm, Dr. John Zapp and Dr. Robert Novick, director of the Bureau of Community Environmental Management, were invited to a meeting with members of the Health Subcommittee on February 5.

Dr. Chisolm said his protoporphyrin test is now considered accurate down to 50 micrograms of lead per 100 millilitres of blood, and he advised Dr. Zapp of at least three publications which have reported on his method and supported its validity.

At present, a concentration of 40 micrograms or more is considered evidence of undue absorptions of lead. Screening for this level can, at present, only be done by the cumbersome blood lead test. The question now seems to be whether HEW should consider an economical mass screening method that is accurate down to 50 micrograms, which is considered the threshold for possible lead poisoning. There are several things to be said about this proposal, not the least of which is the fact that the present guidelines were set up by the surgeon general, with Dr. Chisolm's assistance, at a time when there was no other accurate method of detecting lead poisoning.

First, the blood lead test is time-consuming as well as costly and difficult to perform. Thus, it will take a considerable time to complete the screening of children in even a single neighborhood, and it will be a much longer time before the child is retested. In fact, Baltimore has yet to begin tests under last year's grant (made in June) because a technician has not yet been trained for this difficult laboratory analysis. On the other hand, Dr. Chisolm's method enables the tester to take a pin-prick sample and analyze it on the spot. A child who shows a positive reaction would be given the standard blood lead test. Other children could be retested more frequently and at a fraction of the cost of the present method (about one dollar per test vs. $15).

Second, lead poisoning among children is very seasonal, and precipitous elevations usually occur during the summer months. Thus, there is a need for testing children regularly (HSMHA Reports of February, 1971, recommends 4-week intervals).

Third, according to the same HSMHA Reports, "In some cities, undue exposure to and absorption of lead among children may be so prevalent that an overwhelming number of those screened are found to have blood lead levels of 40 micrograms or more." It is generally agreed that once a child's blood lead level gets above 40 micrograms, it is virtually impossible to get it back down to that level because of other ever-present sources of lead contamination (dust, exhaust fumes, etc.). However, these children should be continuously screened to guard against further elevations above 50 micrograms.

In conclusion, it seems that a full scale field demonstration of Dr. Chisolm's test could greatly improve the future well-being of countless children, especially those in older inner city areas where many houses have surfaces covered with lead-based paints. Baltimore would be a suitable choice because it does contain many old houses, and Dr. Chisolm would be readily available to assist in supervising the work.

The Senate Health Subcommittee believes that such a demonstration would greatly serve our national interest, and we would strongly urge the Department of Health, Education, and Welfare to take whatever steps are necessary to permit a practical demonstration of this very promising test for lead paint poisoning.

With warmest personal regards.

J. GLENN BEALL, Jr.
EDWARD M. KENNEDY.

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[From the Baltimore News American]

LEAD PAINT POISONING

Baltimore is being considered as the site of federally financed field testing for a simple and relatively inexpensive method to detect lead paint poisoning in children.

If the U.S. Department of Health, Education and Welfare does select this city for the pilot program, it will be an appropriate choice. The new method, involving a pin-prick to obtain a drop of blood for analysis on the spot, was developed by Dr. Julian Chisolm, a Baltimore pediatrician and an authority in the field.

Sen. J. Glenn Beall, Jr., R-Md., is pressing HEW to adopt Dr. Chisolm's procedure and try it out in a large field study. The prospects seem good for HEW acquiescence.

Although paints for interior use have been free of lead for many years, lead paint poisoning remains a hazard in older neighborhoods where chips from peeling walls are eaten by small children.

Serious brain damage can result even if the victim lives.

The cost of Dr. Chisolm's test, about $1, is low enough to allow health agencies to step up the pace of detection of programs in a meaningful way. We hope that Sen. Beall will be successful in persuading HEW to test the method here, the home of the man who developed it and a city where lead-paint poisoning is as great a danger as anywhere in the country.

The committee amendment was agreed to.

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

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## SENATE CONFIRMATION OF CERTAIN OFFICERS IN EXECUTIVE OFFICE OF THE PRESIDENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 108, S. 590.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 590, to require that future appointments of certain officers in the Executive Office of the President be subject to confirmation by the Senate.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 10 minutes.

Mr. PERCY. Mr. President, S. 590 would require that, following the effective date of this act, appointments by the President to fill the offices of Executive Secretary of the National Security Council, the Executive Director of the Domestic Council, and the Executive Director of the Council on International Economic Policy be made subject to the advice and consent of the Senate. With respect to the first two offices, the application of this requirement is prospective and the present incumbents would not be affected. In the case of the Executive Director of the Council on International Economic Policy, this requirement would apply only if the International Economic Policy Act of 1972 is extended beyond its present expiration date, June 30, 1973, and no individual would be permitted to serve in such office after that date unless he has been so appointed.

The objective of this bill is to insure that the Senate will have an opportunity to inquire as to the fitness of officials in the Executive Office of the President who

have important operational and policymaking responsibilities. Under existing law, appointments to these offices do not require Senate confirmation.

Mr. President, S. 590 was unanimously ordered reported by the Committee on Government Operations on the date of its introduction, January 29. I am pleased that our distinguished chairman, Senator ERVIN, and seven other members of our committee—Senator BROCK, Senator CHILES, Senator JAVITS, Senator METCALF, Senator MUSKIE, Senator ROTH, and Senator SAXBE—have joined me in cosponsoring the bill.

Mr. President, I think it is notable that by April 11, four standing committees of the Senate reported this bill. The report from the Government Operations Committee was filed on Fedruary 26. The Government Operations Committee has general jurisdiction over questions of Government organization and operation, and specific jurisdiction over the Domestic Council, which was created by Reorganization Plan No. 2 of 1970.

The bill was referred to the Foreign Relations Committee for its general oversight in the foreign relations field and its interest in the National Security Council, and its specific jurisdiction, which it shares with the Banking Committee, over the International Economic Policy Act of 1972 (Public Law 92–412) which created the Council on International Economic Policy. The bill was reported favorably by the Foreign Relations Committee on March 12.

The bill was then referred to the Committee on Banking, Housing and Urban Affairs because of its specific jurisdiction over the law creating the Council on International Economic Policy, and that committee reported the bill favorably on March 15. The bill was then referred to the Armed Services Committee because of its jurisdiction over the National Security Act and the National Security Council, and that committee reported the bill without recommendation on April 10.

Mr. President, I think it is somewhat ironic that so simple a bill should have to wend its way through such a tortuous maze. It is also a compliment to the essential merit of the bill that it did so with such strong support in three committees, and in such a relatively short time. The Armed Services Committee report indicates that, in light of the time limit—30 days—included in the unanimous-consent agreement, the committee recommended that the bill be reported without recommendation.

Our action today to require confirmation of the next occupants of these three statutory posts will mean the ranking officers of all the component offices comprising the Executive Office of the President will be subject to appointment by and with the advice and consent of the Senate.

The Senate's right to advise and consent in the appointment of officers of the United States is stated in article 2, section 2, clause 2 of the Constitution. The meaning of the clause is that important officers of the United States are to be appointed subject to State advice and consent, but that what are termed "inferior officers" need not be.

What seems clear is that the Constitution delegates to Congress, as a part of the system of checks and balances, the right to confirm officers appointed by the President.

The source of my concern is simply that a number of important posts have been created in the Executive Office of the President which are not subject to Senate confirmation.

At the outset of this Congress, I identified six such posts, five in the EOP, and another in an independent agency, the Cost of Living Council, which when first established was part of the EOP. They were the Director of the Office of Management and Budget, the Executive Director of the National Security Council, the Executive Director of the Domestic Council, the Executive Director of the Council on International Economic Policy, the Director of Consumer Affairs, and the Director of the Cost of Living Council. None were subject to confirmation.

Today the situation is, I am glad to say, quite different. The Senate passed S. 421 on January 23, 1973, requiring confirmation of the Executive Director of the Cost of Living Council. The bill has not been passed by the House but this particular bill is supported, I am glad to say, by the administration.

Last week the Senate passed the conference report on S. 518, which requires the confirmation of the Director and the Deputy Director of the Office of Management and Budget. The functions of the Office of Consumer Affairs have now been transferred to the Department of Health, Education, and Welfare by Executive order, and while Mrs. Knauer retains the title of Assistant to the President, the functions officially assigned her are conducted in the departmental context, eliminating a need for confirmation.

Essentially, then, we are left with three ranking, important posts in the Executive Office of the President which are not subject to confirmation, while the heads of nine such offices are subject to confirmation.

Within the Executive policymaking and decisionmaking structure, these three officers, and the agencies they manage, have become extremely important. The impact on the American people of decisions made by these officers is potentially profound. They are certainly more important than the vast majority of the 13,960 civilian appointments, and an overall total of 248,706 appointments including military appointments confirmed by the Senate in the 92d Congress.

The cumulative result of the creation within the Executive Office of the President of posts not subject to confirmation has been to insulate from Congress these key officials and the functions they perform. Congress should insist on the right to confirm these three officials, whose effect on the formulation and implementation of policy, and the administration of the laws is by comparison so great.

EXECUTIVE SECRETARY OF THE NATIONAL SECURITY COUNCIL

The Executive Secretary of the National Security Council is required to be appointed by the President under the National Security Act of 1947 as amended. There is now no Executive Secretary, even though the functions of the National Security Council have grown beyond those initially intended by the Act, and even though the Nixon administration, the funds appropriated for the Council staff, and the size of the staff itself have grown under the present administration enormously. The Council itself has become less and less important. In the Government Operations Committee report on page 3, footnote 2, the Council is noted as having met 37 times in 1969, 23 times in 1970, 13 times in 1971, and 6 times in 1972. Those data were based on a preliminary report from the NSC staff. The final information shows that the Council met only 3 times last year.

Though the Council itself is now considered by some of marginal or nearly insignificant importance, the staff, directed by Dr. Kissinger, has expanded from 48 full-time permanent positions in fiscal year 1969 to a total of 140 full-time staff in fiscal year 1973. And the budget of the NSC staff has increased from $792,000 in fiscal year 1969 to $2,762,000 in fiscal year 1973.

Thus, in 1973, the White House national security operation is vastly different from that envisaged by the 1947 act. That act foresaw a small staff, headed by an Executive Secretary, serving as a supporting staff for an active National Security Council. Instead we have a very substantial staff serving as the President's own national security policy and operations arm headed by a Presidential assistant with a very broad range of responsibilities which make him in some respects a supercabinet officer.

Legally, it is quite normal procedure for Dr. Kissinger to conduct himself as Chief of the Council staff. Indeed, if 50 U.S.C. 402(c) is read literally, the legality of the staff is questionable, on two grounds: First, because the statute states that only the Executive Secretary may appoint and fix the compensation of such personnel as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions; second, because the NSC staff seldom serves the Council itself, but serves instead the President through his Special Assistant for National Security Affairs, who, in turn, serves the President. Thus the concept of an active National Security Council served by a staff has become a legal fiction in the name of which funds are appropriated for this very potent agency.

S. 590 recognizes the changed status of the NSC staff by requiring Senate confirmation for its chief administrative officer, the Executive Secretary. At the same time we hope it will have the effect of restoring responsibility for managing the NSC staff to the official designated by law to do so, or that legislation will be proposed by the administration to update our law to bring it in accord with actual practices.

EXECUTIVE DIRECTOR OF THE DOMESTIC COUNCIL

The Domestic Council was established by authority of Reorganization Plan No. 2 of 1970. At the time, the President explained the breadth and importance of this new White House office which to a considerable degree would be

the domestic counterpart of the National Security Council, and noted that it would be provided with an institutional staff.

Reorganization Plan No. 2 provided that the Council will be supported by a staff under an Executive Director who will also be one of the President's assistants. On the basis of his dual status as Presidential assistant, the Council's Executive Director was to be exempted from Senate confirmation.

The House Government Operations Committee reported a resolution disapproving the plan. One of the committee's primary objections to the plan was the provision authorizing appointment of an assistant to the President as Executive Director of the Council. This is contrary to the Reorganization Act, which requires that officers authorized by reorganization plans be either confirmed by the Senate or be in the competitive Civil Service. The House committee also objected to the fact that this plan rendered the Executive Director and his staff beyond accountability to Congress. Large and important areas of domestic concern could be completely concealed from the legislative branch, the committee noted.

Time has shown the Executive Director of the Domestic Council has become a highly important official of Government with a very broad range of authority over the implementation of congressionally mandated programs, and that the concerns expressed by our colleagues in the House Government Operations Committee have proven to be well founded.

EXECUTIVE DIRECTOR OF THE COUNCIL ON INTERNATIONAL ECONOMIC POLICY

The post of Executive Director of the Council on International Economic Policy was established by authority of the International Economic Policy Act of 1972 section 208.

At the time the Committee on Foreign Relations considered the bill, several Senators expressed strong reservations that the Council was an agency with the capacity to develop and promote its own views on issues, not a mere staff group writing neutral papers for policymakers.

Now the administration has sent up a bill, S. 1636, to amend the International Economic Policy Act to give permanent authorization to the Council on International Economic Policy. The message accompanying the bill indicates that the Office of the Special Representative for Trade Negotiations is intended to be absorbed by the CIEP, and that the Special Trade Representative and his two deputies, all three holding the rank of ambassador and confirmed by the Senate, be made subordinate to the Council's Executive Director, who is not subject to Senate confirmation. I believe this situation speaks for itself. The Executive Director of the CIEP is an important policy official, and he will become more important if S. 1636 is passed. I strongly recommend that we require the Executive Director's confirmation, and I again point out that both the Foreign Relations Committee and the Banking Committee concur in that judgment.

In conclusion, Mr. President, I wish to make it clear that none of the sponsors of this legislation, and none of the committees that have reviewed it, intend the bill to intervene between the President and his personal staff who directly assist him in the performance of his duties as Chief Executive. Nor is the bill directed in any critical manner toward the incumbents of the offices of Executive Director of the Domestic Council, or Executive Director of the Council on International Economic Policy, nor against the President's Adviser for National Security Affairs, who acts as Executive Secretary of the National Security Council. But our committee has concluded that it is both constitutionally proper, and sound public policy, that the position here involved be made subject to Senate confirmation, because the officers in question have responsibilities well beyond those of personal advisers or consultants to the President. Each of the three posts affected has an operating function conferred by or developed from law or reorganization plan. And those holding those posts can in no way be considered inferior officers as the term is used in the Constitution. For these reasons I urge passage of the bill.

The PRESIDING OFFICER. Who yields time?

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

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask that the time be charged against Mr. SYMINGTON's time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant 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.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. SYMINGTON, I yield back his remaining time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on the engrossment and third reading of the bill.

The bill 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 assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), and the Senator from California (Mr. TUNNEY) are necessarily absent.

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 Alaska (Mr. GRAVEL) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Wyoming (Mr. HANSEN) are necessarily absent.

The Senator from Delaware (Mr. ROTH) is detained on official business.

The result was announced—yeas 72, nays 21, as follows:

[No. 129 Leg.]

YEAS—72

| | | |
|---|---|---|
| Abourezk | Gurney | Mondale |
| Aiken | Hart | Montoya |
| Allen | Hartke | Moss |
| Baker | Haskell | Muskie |
| Bayh | Hatfield | Nelson |
| Bentsen | Hathaway | Nunn |
| Bible | Hollings | Pastore |
| Biden | Huddleston | Pearson |
| Brock | Hughes | Pell |
| Brooke | Humphrey | Percy |
| Burdick | Inouye | Proxmire |
| Byrd, Harry F., Jr. | Jackson | Randolph |
| | Javits | Ribicoff |
| Byrd, Robert C. | Johnston | Saxbe |
| Cannon | Kennedy | Schweiker |
| Case | Long | Sparkman |
| Chiles | Magnuson | Stafford |
| Church | Mansfield | Stevens |
| Clark | Mathias | Stevenson |
| Cook | McClellan | Symington |
| Cranston | McClure | Talmadge |
| Eagleton | McGee | Weicker |
| Eastland | McGovern | Williams |
| Ervin | McIntyre | |
| Fong | Metcalf | |

NAYS—21

| | | |
|---|---|---|
| Bartlett | Dole | Packwood |
| Beall | Domenici | Scott, Pa. |
| Bellmon | Dominick | Scott, Va. |
| Bennett | Fannin | Taft |
| Buckley | Griffin | Thurmond |
| Cotton | Helms | Tower |
| Curtis | Hruska | Young |

NOT VOTING—7

| | | |
|---|---|---|
| Fulbright | Hansen | Tunney |
| Goldwater | Roth | |
| Gravel | Stennis | |

So the bill (S. 590) was passed, as follows:

S. 590

An act to require that future appointments of certain officers in the Executive Office of the President be subject to confirmation by the Senate.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, effective with respect to appointments made after the date of the enactment of this Act, the Executive Secretary of the National Security Council (established by section 101 of the National Security Act of 1947) and the Executive Director of the Domestic Council (established by section 203 of Reorganization Plan Numbered 2 of 1970) shall each be appointed by the President by and with the advice and consent of the Senate.

SEC. 2. If provisions of the International Economic Policy Act of 1972 (title II of Public Law 92-412) are extended beyond June 30, 1973, the Executive Director of the Council on International Economic Policy shall be appointed by the President by and with the advice and consent of the Senate, and no individual shall serve in such office after June 30, 1973, unless he has been so appointed.

Mr. PERCY. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, for the information of the Senate, there will be no further votes this afternoon.

## ENERGY POLICY ACT OF 1973

Mr. MANSFIELD. Mr. President, I ask unanimous consent at this time that

the Senate turn to the consideration of Calendar 109, S. 70; that it be laid before the Senate and made the pending business for tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will state the bill by title.

The assistant legislative clerk read the bill by title, as follows:

A bill (S. 70) to promote commerce and establish a Council on Energy Policy, and for other purposes.

## PROGRAM

Mr. STAFFORD. Mr. President, I ask the majority leader to yield for the purpose of asking what the schedule is for the remainder of the day and for tomorrow.

Mr. MANSFIELD. Mr. President, I am delighted to yield to the acting Republican leader and to state that what is now the pending business will not be taken up tonight, but will be taken up first thing tomorrow.

It is hoped that that bill will be followed by S. 373, a bill having to do with the separation of Federal powers and to protect the legislative function by requiring the President to notify the Congress whenever he impounds funds, and so forth, and then it is hoped that that bill will be followed by S. 14, a bill to amend the Public Health Service Act.

That is about the best I can say at this time.

## ORDER FOR ADJOURNMENT UNTIL 10 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 o'clock tomorrow morning.

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

## ORDER FOR RECOGNITION OF SENATORS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be separate 15-minute special orders for tomorrow for the distinguished Senator from Michigan (Mr. GRIFFIN), the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD), and the Senator from Montana now speaking.

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

## POSSIBILITY OF NO SESSION FRIDAY

Mr. MANSFIELD. Mr. President, the reason for coming in early tomorrow is that if we can clear the calendar sufficiently well, it would be the intention of the joint leadership not to meet on Friday. Of course, events will determine whether or not that occurs.

## CONVENTION FOR SAFETY OF LIFE AT SEA—REMOVAL OF INJUNCTION OF SECRECY

Mr. MANSFIELD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from six amendments to the Convention for the Safety of Life at Sea, 1960—Executive I, 93d Congress, first session—transmitted to the Senate today by the President of the United States, and that the amendments to the Convention with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

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

The message is as follows:

*To the Senate of the United States:*

I herewith transmit for the advice and consent of the Senate six amendments to the Convention for the Safety of Life at Sea, 1960.

These amendments were adopted at London on October 12, 1971 by the Assembly of the Inter-governmental Maritime Consultative Organization (IMCO) and are the outcome of recommendations of the Maritime Safety Committee of IMCO directed toward improvement of safety of navigation. The regulations as amended would provide for improved radio-telephone watch procedures, more modern radio-telephonic devices, and more detailed procedures for operation of such devices. In addition, the insertion of a new regulation on routing specifies an increased role for IMCO in establishing and coordinating routes and increased enforcement responsibility for the contracting governments.

For the information of the Senate, I am also transmitting the report of the Department of State with respect to the amendments.

I recommend that the Senate give swift and favorable consideration to all of these amendments.

RICHARD NIXON.

The WHITE HOUSE, *May 9, 1973.*

## ORDER OF BUSINESS

Mr. HARRY F. BYRD, JR. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 70, a bill to promote commerce and establish a Council on Energy Policy.

## DISPOSAL OF NAVAL VESSELS

Mr. HARRY F. BYRD, JR. Mr. President, the Subcommittee on General Legislation of the Senate Committee on Armed Services held followup hearings on naval vessel disposals after receiving notification that loaned vessels approved by this committee were being stricken from the register and sold.

Last year's loan bill had certain amendments which the executive branch strongly opposed. The amendments required that first loaned vessels must be returned to U.S. custody at the expiration of the loans and second, the executive branch may not extend any loan without congressional approval.

After passage of the bill last year, the Navy changed its policy of loaning ships to foreign countries and instituted a new policy under which vessels on loan are stricken from the Naval Vessel Register and sold to the recipient nation under the provisions of the Foreign Military Sales Act.

By so doing, the Navy bypasses the Congress and unilaterally disposes of U.S. major combatant ships and smaller vessels, without approval of the Congress.

I submitted today the subcommittee's report for the approval of the full committee.

In so approving it, it approved the legislation which I have introduced today.

Since the enactment of the loan bill last year Public Law 92–270—the Navy has stricken and sold 16 major combatant vessels which had been authorized as loans. This has been accomplished without consultation and without congressional approval.

The subcommittee report which the Armed Services Committee approved today, in effect, recommends simply that section 7305 of title 10 to prohibit the sale of any vessel stricken from the Naval Register under the Foreign Military Sales Act. The amendment requires that striken major combatant vessels be disposed of under the competitive bids procedures as the law requires, or by authorizing legislation.

Mr. President, what has happened in pursuance of the policy that has been in existence for some time which requires that the Navy request the approval of the Congress in regard to the loaning of certain ships to friendly or allied nations, is that when the Congress last year placed restrictions on those loans of which the Navy disapproved, the Navy then completely bypassed Congress by selling ships to foreign countries.

Certainly it is not very logical, Mr. President, for the law to require that the Navy come to Congress for approval to make loans of naval vessels when apparently there is a loophole in the law which permits the Navy to make the sale of those vessels without coming to Congress.

The proposal I have introduced in the Senate today, which was approved by the Armed Services Committee this morning, in effect would require the Navy to come to Congress before it can dispose of our combat vessels.

I happen to be one of those Senators who favor the loan proposals. I happen to be one of those who feel that we should utilize our surplus ships to help our allies and to help friendly nations. But I disapprove of the Navy circumventing Congress and disposing of ships without the approval of the elected representatives of the people of the Nation who have financed the building of those ships.

I have a list of ships which have been on loan to other countries and which in recent months have now been sold to those countries without any competitive bidding and without the approval of Congress, and the action was taken so as to get around the restrictions which Congress last year placed on the Navy.

Mr. President, I ask unanimous consent that the list of the 16 ships and the dates of sale be printed in the RECORD.

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

LOANED SHIPS STRICKEN AND SOLD

NAME, COUNTRY, STRIKE DATE, SALE DATE

*Springer*, submarine, Chile, September 1, 1972; September 7, 1972.

*Sandlance*, submarine, Brazil, September 1, 1972; October 12, 1972.

*Cabot*, carrier, Spain, August 1, 1972; December 5, 1972.
*Capp*, DD, Spain, October 1, 1972; December 27, 1972.
*Taylor*, DD, Spain, October 1, 1972; December 27, 1972.
*Converse*, DD, Spain, October 1, 1972, December 27, 1972.
*Jarvis*, DD, Spain, October 1, 1972; December 27, 1972.
*McGowan*, DD, Spain, October 1, 1972; December 27, 1972.
*Bergall*, submarine, Turkey, February 1, 1973; February 15, 1973.
*Hugh Purvis*, DD, Turkey, February 1, 1973; February 15, 1973.
*Bronson*, DD, Turkey, February 1, 1973; February 15, 1973.
*Forrest Royal*, DD, Turkey, February 1, 1973; February 15, 1973.
*Harwood*, DD, Turkey, February 1, 1973; February 15, 1973.
*Ban Balkenberg*, DD, Turkey, February 1, 1973; February 15, 1973.
*Irwin*, DD, Brazil, March 15, 1973; April 11, 1973.
*Hancock*, DD, Brazil, February 15, 1973; April 11, 1973.

Sixteen ships authorized for loan by our committee have been stricken from register and sold.

## VOLUNTARY INDUSTRY ACTIVITY RESULTING FROM INJURY DATA

Mr. MAGNUSON. Mr. President, I invite the attention of the Senate to a most valuable statement by Dr. Walter Ames Compton, M.D., the chief executive officer of Miles Laboratories to the Food and Drug Law Institute. In the statement entitled, "Voluntary Industry Activity Resulting From Injury Data," Dr. Compton sets forth a philosophy for the safety of consumer products which I find to be an enlightened and constructive statement defining corporate responsibility.

Unlike many industry leaders, Dr. Compton does not regard the new product safety law and the gathering of product safety data as intrusions upon the private preserve of business, but a welcome opportunity for improvement of products to serve the community. He sees reasonable safety regulation as a means of bringing the standards of design responsibility within each industry up to the levels of the most responsible members of the industry, rather than pulling down performance through market pressures to the lowest common denominator of safety.

I ask unanimous consent that the text of Dr. Compton's statement be printed in the RECORD.

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

VOLUNTARY INDUSTRY ACTIVITY RESULTING FROM INJURY DATA

(By Walter Ames Compton, M.D.)

I have been asked to speak with you today on the subject of Voluntary Industry Activity Resulting From Injury Data. There is no question that there has been a marked acceleration in current times—both as to a notably increased awareness and interest in product safety by the public and a concerted effort by public, government, and private organizations to gather more product injury data and make it available to the consumer.

I welcome this opportunity to share with you my views on this sensitive and critical subject which deserves the just concern of the business community. It is sensitive and critical because in product injury we are dealing with the possible impairment or destruction of our most valuable national asset—people. It deserves the just concern of our business community because we are the springwell from which the product comes and we have both the right and the obligation to exert constructive thought and action to ensure that sound and realistic safety standards are achieved for products; to ensure that the retrieval of product injury data is meaningful and constructive and more importantly, to make sure that such data is promptly made available to, and used by industry.

We then come to the assigned title of my talk and what has to be the whole objective of gathering product injury.—

What should industry do with the product injury data?

First, it might be well to emphasize a few salient facts. I could speak about possible business community instinctive negative reaction to the government gathering injury data relating to the use of our products; about potential for abuse; about the propensity so commonly seen for making shallow political capital out of product injury data headlines.

Putting these areas aside, the facts we must acknowledge are that safety problems do exist in a large number of industry products, people are being injured by products and organizations—an example of which is the data reporting system known as the National Electronic Injury Surveillance System—are gathering this injury data and making it available for the use and interest of all concerned.

An even more pertinent fact is that the President, on October 27, 1972, signed into law the Consumer Product Safety Act of 1972. The first sentence of that Act reads:

"The Congress finds that . . . an unacceptable number of consumer products which present unreasonable risks of injury are distributed in the commerce."

The Act establishes an independent Consumer Product Safety Commission of five members to be appointed by the President and confirmed by the Senate. This Commission is granted newly-created Federal authority to regulate all consumer products and components thereof. Despite the broad term "all consumer products there are numerous articles the Act does not cover, such as motor vehicles, firearms, aircraft, or food, drugs, devices or cosmetics as defined in the Federal Food, Drug, and Cosmetic Act. The exemption of drugs is limited since the Commission does have a degree of authority over the packaging of drugs under the Federal Poison Prevention Packaging Act.

Probably I need not point out that exclusion of drugs under this new Act does not imply that drug safety is no problem—or a lesser problem. All here I am sure are well aware that the Federal Food, Drug and Cosmetic Act, and the Regulations issued thereunder, already provide ample authority to mandate safety of drugs. The high standards, and properly so, required of the drug industry to distribute only products of maximum attainable purity and quality together with standards of safety and efficacy are, of course, already a matter of law and regulatory government procedure. An injury data retrieval system and a responsible implementation program as to such data is an inescapable fact of business, not only in the area of food, drugs, and cosmetics but consumer products in general as well.

Another fact is that the consumer is no longer, if he ever was, a silent unknown end-recipient of our products. He is now more and more effectively demanding to be heard and is being heard, and I assert that this is a healthy and desirable development.

The phenomenon of so-called consumerism has served notice that in many cases, existing standards of products are found wanting by society, and that industry is being called to a needed accounting.

I submit that *responsible* members of industry will not be fearful of subjecting their products to such an accounting. They will welcome standards of product safety and a system of monitoring product injuries and data accumulation as to such injuries; and that manufacturers who, in the past, may have thought it expedient or desirable to cut corners and to ignore concern for the consumer will now most properly, more than ever before, be called to task.

With acknowledgment of the facts of life as to product safety standards and data accumulation as to product injuries, it makes sense forthrightly and intelligently to respond.

As businessmen, we must be prepared to take a more active, and a constructive role in the public debate on the regulatory issues. If industry does not, we can fully expect decision-making on such issues to be to that degree more erratic and less scientific. If the news media possess and communicate more data than industry members affected by regulations, it is reasonable to expect them to be more influential in the regulatory process. However, if there be knowledgeable, constructively motivated participation by industry to improve the *quality* of regulation, I do believe that we can gain the confidence of the public in the regulatory process and thus achieve a better sense of direction to the regulations.

I submit that if there, in fact does, exist a problem on the part of industry as to the utilization of product injury data, it is largely due to a lack of knowledge as to the purpose and motive of such an injury data retrieval program or perhaps a misguided impression that a data reporting system such as N.E.I.S.S. is an improper form of industry surveillance. Such a program is, of course, a form of surveillance but it produces data which, if the businessman will accept and evaluate with an objective mind, can only be to his benefit. It is my experience most businessmen, given the opportunity to use reliable market research data which indicates an existing area of dissatisfaction on the part of the consumer with resultant loss of profit, will leap at the chance to eliminate the element of dissatisfaction with resultant better customer satisfaction and then increased profit as a normal fallout. It is with this frame of mind that the businessman must approach the product injury data retrieval systems. He must not rely solely on N.E.I.S.S., but *must be* imaginative and innovative in devising sources of his own. Then, after he gets the information comes the real test of how to use it efficiently.

It is an inescapable fact that in industry we can expend huge sums in research and product development, set up elaborate marketing program, solve the problem of manufacturing and distribution but that the real measure of success comes when we receive the answer from the user-public as to how the product performed and what, if any, defects or deficiencies came about during its use. And that is the whole essence of the importance of injury data retrieval programs.

Congress, speaking for the public, in enacting the Consumer Product Safety Act might be said simply to have put us on notice that industry has not met expectations in providing safe consumer products. This is but a broad statement of dissatisfaction, and in order for the private business sector to respond we must know more about what the public conceives of as our failures so that we can apply our resources to their correction. The role that national injury data banks can play is obvious. It is through the feedback from N.E.I.S.S. and other sources, certainly not the least important of which is the individual consumer inquiry which each of us constantly receives as to our products,

that information on actual field performance is secured to allow us to re-design, reformulate, or relabel our products and thus avoid a repetition of injury associated with use. While the foreseeability of such injury was not there when the responsible manufacturer marketed the product he thus has been put on notice and has both moral and legal responsibility to act.

The business which participates in a good injury data retrieval program and then establishes an internal organization to act on such data will be alert to areas of emerging public concern as well as to specific problems of the individual company's product; the lag time in taking corrective measures will be correspondingly minimized.

We have not yet realized Utopia. It is unrealistic to expect that all product-related injuries can be eliminated. Just as medicinal substances, if active and useful, are not and can never be either wholly safe or wholly effective, so instruments designed to cut inanimate objects will cut people; devices designed to generate heat will produce burns. Our burden as manufacturers must be, as nearly as we can, to try to anticipate the eccentricities of human behavior and to design into our products tolerances for misue based on actual consumer experience rather than idealized instruction manuals. By efficient injury data systems, together with an internal organization to evaluate and act, we are in a better position to conform the product to that sort of practical consumer experience.

To focus on common consumer abuses, in-depth studies will provide invaluable clues as to the steps which are likely to be more effective. Even with priorities established for in-depth reporting under the N.E.I.S.S. system, or by the Injury Information Clearing House provided for in the Consumer Product Safety Act, businessmen will undoubtedly find it advantageous to continue to provide private funding for in-depth studies of special significance to their own prdoucts especially when the product safety questions presented are of perhaps lesser national or general priority.

There is another reason for the creative use of product safety data which is both a service to the public and at the same time self-serving to corporate interests. Regulatory actions are likely to be drawn broadly—particularly in the initial stage. Because it is the business community that has product development technology as well as exposure to consumer experience, industry so is in a unique position to complement the regulatory process by suggesting means for more precise regulations. When it is possible to do so, we should assist government in determining that action which will achieve the deired objective at a minimal cost and least disruption to the commercial sector. If it can be shown that a desired result can be achieved with a less costly regulatory action, then this should prevail. The only way to do so is to have, and effectively present, better and more persuasive data. Again, the basic data banks of the N.E.I.S.S., the Product Safety Commission's Clearinghouse and other sources will be invaluable in these efforts.

I have been specifically requested to discuss the question how corporations might organize to respond to product safety data. While not either presuming to impose my own organizational concepts on others, or representing that there is any one organizational plan which is suitable to all corporations, there *are* some *generalizations* which we have found useful as a starting point for internal planning:

1. The review of product-associated injury data should be *systematic*—a specifically assigned responsibility in the corporation, under which proper performance and systematic review is the direct responsibility of top management.

2. The personality of the persons with this assignment is extremely important. Imagination, organizational abilities, and the ability to take on the internal "establishment" when necessary, are especially important.

3. The review of product-associated injury data is, in most cases, more susceptible to interdisciplinary task force operations. Such a task force might include representatives of Legal, Quality Control, Product Development, Data Processing, and Medical disciplines, to name some of the obvious choices.

4. The person or task force with product-associated injury data monitoring responsibility will not wish to confine himself only to the national public data sources. The National Safety Council, consumer inquiry or complaint letters, Poison Control Centers, and trade associations all can prove to be useful sources of information. Consumer correspondence, particularly, is frequently overlooked as an excellent source of information and in this the assigned executive should regard himself as the public's ombudsman.

5. Those with product-associated injury data responsibilities will want to organize appropriate trade association groups to assemble collective data and to provide mechanisms for voluntary standard-making activities. The Trade Association should also be encouraged to monitor and report on the current activities of the Consumer Product Safety Commission and the Commission's Advisory Committee.

6. An additional source of guidance and useful data which has been given substantial attention by the N.B.C.C.A.'s Subcouncil on Product Safety is the *insurance industry*. Individual insurers of businesses are uniquely interested in encouraging reductions in product-associated injuries, and at the same time are likely to be highly practical, highly competent advisors. *Their advice should be actively sought and used.*

Turning back for a moment to my earlier observation as to the need of constructive input by the business community in regulatory decisions, I would stress that the legislative framework established by the Product Safety Act offers extraordinary opportunities to those who are capable of designing products which make a significant contribution to consumer safety. In the past, manufacturers who designed safety into their products at higher cost were faced with price competition by less safety-conscious manufacturers. Often the safety-quality aspect was not readily apparent in the product and so consumers, too often thus allowed price to be the overriding consideration—through ignorance of the safety issues involved.

With the new Consumer Safety Act we have a mechanism which will enable manufacturers to initiate standard-making procedures with which all will need to comply. If the new Consumer Safety Commission does its job, consumers can be expected to achieve a new and considerably higher level of awareness of safety—not only in the use of consumer products, but also as an increasingly important quality consideration in purchasing.

It is clear from the legislative requirements of the Act that product safety standards will not be adopted simply because it is possible to make the product safer. It will be essential to show that utility is not jeopardized, and that the economic cost of the standard is justified in terms of the likely contribution to reduction in injuries. Again, the role of product safety data banks is quite important. It is against these sources that proposed standards may be measured. Corporate research and development units seeking more safe products would do well to establish internal priorities based on a thorough analysis of such injury data sources.

In conclusion, the passage of the Product Safety Act and the ongoing existence of a new government agency whose sole concern is product safety does more than change the regulatory climate in which business people operate. New opportunities have been created which will provide profit benefits to those who are able to discern the opportunities and to organize themselves accordingly. In this sense, realization of problems becomes simply a definition of opportunity and using product injury data positively is no more than one of the initial considerations of any corporation whose intention is to prosper in our current regulatory and social environment.

More than any other single quality, the *proper use* of product safety data is a function of proper attitude to the new regulatory environment. If it is the feeling of your organization that reports of product-associated injuries provide a marketing research tool which can better insure the delivery of safe and efficacious products for the consumer you are probably in a position to profit in the new regulatory system. If, on the other hand, you find yourself preoccupied with the thoughts that the new act is inflationary or unwarranted, or of little likely benefit to the consumer, I would suggest to you that Congress has already conclusively decided these issues and should no longer be a matter for debate. There is no new frontier here of business conduct which has been legislated; there is no new discovery that it is essential to know if your product is safe—or if it is capable of harm—what you do is to discover, define and correct that potential for harm. Really, the moral commitment to consumer safety was made when we elected to become a member of industry. Reasoned legislation and enactment of just regulations must be viewed as a restatement of that commitment. To react otherwise is sheer folly. I submit to you that the opportunity is ours—let us not permit it to slip away or to become distorted by misunderstanding or inactivity.

## TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, with statements therein limited to 3 minutes.

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

## COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON EXCHANGE STABILIZATION FUND

A letter from the Secretary of the Treasury, transmitting, pursuant to law, a report on the Exchange Stabilization Fund, for fiscal year 1972 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

PROPOSED LEGISLATION FROM DEPARTMENT OF LABOR

A letter from the Secretary of Labor, transmitting a draft of proposed legislation to extend and improve the Nation's unemployment compensation programs, and for other purposes (with accompanying papers). Referred to the Committee on Finance.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United State, transmitting, pursuant to law, a secret report on "The SAM-D Missile Program" (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 "Evaluation of the Office of Economic Opportunity's Performance Contracting Experiment", dated May 8, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

PROPOSED LEGISLATION FROM THE SECRETARY OF TRANSPORTATION

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize the head of an executive department, a military department, an agency, or an independent establishment in the executive branch to render emergency assistance in certain circumstances (with accompanying papers). Referred to the Committee on Government Operations.

PERMANENT RESIDENCE STATUS FOR CERTAIN ALIENS

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

REPORT ON CERTAIN DEFECTOR ALIENS

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

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Res. 102. Resolution authorizing the printing of additional copies of the report entitled "Development in Aging: 1972 and January-March 1973" (Rept. No. 93–140);

S. Res. 103. Resolution authorizing additional expenditures by the Committee on the Judiciary for routine purposes (Rept. 93–141);

H. Con. Res. 109. Concurrent resolution providing for the printing of remarks of tribute to the late President of the United States, Lyndon Baines Johnson (Rept. No. 93–142);

H. Con. Res. 126. Concurrent resolution to provide for the printing of one thousand additional hearings entitled "Year-Round Schools" (Rept. No. 93–144); and

H. Con. Res. 156. Concurrent resolution to provide for the printing of one thousand additional hearings entitled "Corrections, Federal and State Parole Systems", parts VII–A and VII–B, serial 15, Ninety-second Congress (Rept. No. 93–143).

By Mr. CANNON, from the Committee on Rules and Administration, with amendments:

S. Res. 96. Resolution authorizing the Committee on Interior and Insular Affairs to expend additional funds from the contingent fund of the Senate (Rept. No. 93–145); and

S. Res. 101. Resolution authorizing supplemental expenditures by the Committee on the Judiciary for an inquiry and investigation relating to the representation of citizen interests (Rept. No. 93–146).

## EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. NUNN, from the Committee on Armed Services:

Howard H. Callaway, of Georgia, to be Secretary of the Army.

The nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. THURMOND, from the Committee on Armed Services:

Robert C. Hill, of New Hampshire, to be an Assistant Secretary of Defense.

The nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Mr. HARRY F. BYRD, JR. Mr. President, from the Committee on Armed Services, I report favorably the nomination of one Navy vice admiral, four lieutenant generals in the Army, and one lieutenant general in the Marine Corps to be placed on the retired list in those respective grades; the promotion of three Army major generals to lieutenant general, one Air Force major general to lieutenant general, one rear admiral to vice admiral, and two major generals to lieutenant general in the Marine Corps, and 61 rear admirals in the Navy for permanent promotion in that grade. I ask that these names be placed on the Executive Calendar.

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

The nominations, ordered to be placed on the Executive Calendar, are as follows:

Maj. Gen. Leo J. Dulacki and Maj. Gen. Herbert L. Beckington, U.S. Marine Corps, for commands and other duties determined by the President, for appointment to the grade of lieutenants general while so serving.

Maj. Gen. Joseph G. Wilson (major general, Regular Air Force) U.S. Air Force, to be assigned to a position of importance and responsibility designated by the President, in the grade of lieutenant general;

Lt. Gen. Julian Johnson Ewell, Army of the United States (major general, U.S. Army);

Lt. Gen. William Raymond Peers, Army of the United States (major general, U.S. Army);

Lt. Gen. Willard Pearson, Army of the United States (major general, U.S. Army); and

Lt. Gen. Richard Thomas Cassidy, Army of the United States (major general, U.S. Army), to be placed on the retired list in the grade of lieutenant general;

Maj. Gen. William Robertson Desobry, Army of the United States (major general, U.S. Army);

Maj. Gen. Richard Joe Seitz, Army of the United States (major general, U.S. Army); and

Maj. Gen. Raymond Leroy Shoemaker, Army of the United States (major general, U.S. Army), to be assigned to positions of importance and responsibility designated by the President, in the grade of lieutenant general;

Vice Adm. Thomas J. Walker III, U.S. Navy, for appointment to the grade of vice admiral, when retired;

Rear Adm. Thomas R. Weschler, U.S. Navy, for commands and other duties determined by the President, for appointment to the grade of vice admiral while so serving;

William J. Kotsch, and sundry other officers, for permanent promotion to the grade of rear admiral in the Navy;

Lt. Gen. Hugh M. Elwood, U.S. Marine Corps, when retired, to be placed on the retired list in the grade of lieutenant general; and

By Mr. MAGNUSON, from the Committee on Commerce:

Richard O. Simpson, of California, Lawrence M. Kushner, of Maryland, Constance E. Newman, of the District of Columbia, and Barbara H. Franklin, of New York, to be Commissioners of the Consumer Product Safety Commission.

The above nominations were reported with the recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Mr. MAGNUSON. Mr. President, from the Committee on Commerce, I also report favorably sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

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

The nominations, ordered to lie on the desk, are as follows:

Glen N. Armitage, and sundry other officers, for permanent promotion in the Coast Guard Reserve.

The above nominations were reported with the recommendation that they be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

## 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. MANSFIELD:

S. 1754. A bill for the relief of certain named individuals. Referred to the Committee on the Judiciary.

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

S. 1755. A bill for the relief of the Mondakota Gas Co. Referred to the Committee on the Judiciary.

S. 1756. A bill to authorize the Secretary of the Interior to designate the Beartooth Highway, Montana and Wyoming, as the James E. Murray Memorial Parkway, and for other purposes. Referred to the Committee on Public Works.

By Mr. YOUNG:

S. 1757. A bill to amend the Fair Labor Standards Act of 1938 to treat certain laundry and cleaning enterprises in the same manner as other retail enterprises under that Act. Referred to the Committee on Labor and Public Welfare.

By Mr. SCOTT of Pennsylvania (for himself and Mr. JAVITS):

S. 1758. A bill to implement the Convention on the Prevention and Punishment of the Crime of Genocide. Referred to the Committee on the Judiciary.

By Mr. BAKER:

S. 1759. A bill authorizing further appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes. Referred to the Committee on Public Works.

By Mr. McCLELLAN:

S. 1760. A bill for the relief of Diana Cecelia Marinkovic Blanco. Referred to the Committee on the Judiciary.

By Mr. MAGNUSON (for himself, Mr. COTTON, and Mr. INOUYE) (by request):

S. 1761. A bill to foster fuller U.S. participation in international trade by the promotion and support of representation of U.S. interests in international voluntary standards activities, and for other purposes. Referred to the Committee on Commerce.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 1762. A bill to amend section 27 of the Merchant Marine Act of 1920, to provide a monetary penalty for the transportation of merchandise in violation of the coastwise laws. Referred to the Committee on Commerce.

S. 1763. A bill to amend the Rail Passenger Service Act of 1970, as amended, to provide financial assistance to the National Railroad Passenger Corporation, and for other purposes. Referred to the Committee on Commerce.

By Mr. JAVITS:

S. 1764. A bill to amend section 46 of the Internal Revenue Code of 1954 to provide for greater flexibility in fixing the investment tax credit rate. Referred to the Committee on Finance.

By Mr. BAYH:

S. 1765. A bill to establish an independent Board of Parole, to provide for fair and equitable Federal parole procedures, to study the parole procedures provided for released prisoners, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. BAYH (for himself, Mr. BROOKE, Mr. ABOUREZK, and Mr. CLARK):

S. 1766. A bill to require periodical financial disclosure by officers and certain employees of the Federal Government, to establish criminal penalties for unfair campaign practices, to strengthen presidential campaign financing laws, to amend the Federal Election Campaign Act of 1971, and for other purposes. Referred to the Committee on Rules and Administration.

By Mr. CURTIS:

S. 1767. A bill to amend the Federal Water Pollution Control Act. Referred to the Committee on Public Works.

By Mr. MUSKIE:

S. 1768. A bill to establish a Commission on Mental Health and Illness of the Elderly, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. MAGNUSON (for himself, Mr. COTTON, and Mr. WEICKER):

S. 1769. A bill to establish a U.S. Fire Administration and a National Fire Academy in the Department of Housing and Urban Development, to assist State and local governments in reducing the incidence of death, personal injury, and property damage from fire, to increase the effectiveness and coordination of fire prevention and control agencies at all levels of government, and for other purposes. Referred to the Committee on Commerce.

By Mr. HUMPHREY:

S. 1770. A bill to establish a National Domestic Development Bank to provide an alternative source of credit to State and local governments for the purpose of financing public and quasi-public facilities of all types, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. SPARKMAN:

S. 1771. A bill for the relief of Miss Ros Melinda Padilla Cortes. Referred to the Committee on the Judiciary.

S. 1772. A bill to amend the black lung benefits provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend these benefits to miners who incur silicosis in iron mines, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. HARRY F. BYRD, JR. (for himself and Mr. HUGHES):

S. 1773. A bill to amend section 7305 of title 10, United States Code, relating to the sale of vessels stricken from the Naval Vessel Register. Referred to the Committee on Armed Services.

By Mr. MAGNUSON (for himself, Mr. COTTON and Mr. INOUYE) (by request):

S. 1774. A bill to amend the Federal Trade Commission Act and the Export Trade Act as amended to deal with unfair competition in imports, to provide for clarification of law, for prior Federal Trade Commission clearance of export trade associations, and for other purposes. Referred to the Committee on Commerce.

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## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCOTT of Pennsylvania (for himself and Mr. JAVITS):

S. 1758. A bill to implement the Convention on the Prevention and Punishment of the Crime of Genocide. Referred to the Committee on the Judiciary.

Mr. SCOTT of Pennsylvania. Mr. President, at the present time, the Genocide Treaty is on the Executive Calendar awaiting Senate action. I am today introducing, on behalf of Senator JAVITS and myself, the implementing legislation for that treaty.

I ask unanimous consent that the bill be appropriately referred and that a section-by-section analysis of the bill be printed in the RECORD.

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

SECTIONAL ANALYSIS

Sec. 1 of the bill would add to title 18, United States Code, a new chapter 50A, Genocide, consisting of new sections 1091 and 1092:

Proposed section 1091 of title 18 contains definitions of some of the terms used in the Convention, in order to comply with the principle that criminal statutes should have a sufficient degree of certainty to make it clear without judicial interpretation just what acts are punishable.

Clauses (1)–(4) define the groups which the statute is intended to protect in terms of the characteristics which distinguish them from the rest of the population of the larger society of which they are a part. The larger society can be either a nation or the international community of nations.

Clause (5) defines "substantial part" in terms of its numerical significance to the group as a viable force. The term is used in proposed section 1092 defining the offense of genocide in order to comply with the understanding of the Senate Committee on Foreign Relations concerning the intent provision of Article II of the Convention. Senate Ex. Rep. 93–5, pp. 6–7.

Clause (6) defines children as dependent persons under 18 years of age.

Proposed section 1092 of title 18 creates the crime of genocide, tracking substantially the language of the Convention, except for the use of the terms "without justifiable cause" and "substantial part", and except for subsection (a)(3), which defines genocide by "mental harm" as the willful causing without justifiable cause of the permanent impairment of the mental faculties.

The term "without justifiable cause" is included to make it clear that certain acts, such as justifiable acts of war or acts done justifiably in self defense against domestic insurrection, do not constitute the crime of genocide.

The use of the term "substantial part" is explained in the discussion of clause (5) above.

The definition of genocide by "mental harm" complies with the second understanding of Senate Ex. Rep. 93–5. The definition also details precisely the means used to cause the impairment, in order to avoid a claim of impairment based on incidental or hypothetical mental harm. Not only must the act be willful and without justifiable cause, but it must be calculated to cause dysfunction. "Mental faculties" is amplified and focused in terms of mental processes, nervous system, and motor functions.

Genocide by killing and bodily harm use the Convention terminology entirely, since killing and assault are recognized crimes.

Subsection (a)((4) defines genocide by "inhumane treatment" and clarifies the ambiguity of the Convention's phrase "conditions of life."

Subsection (a)(5) defines genocide by imposed birth control as the willful imposition of measures intended to prevent the natural group increase "as a means of effecting the destruction of the group as such".

Subsection (a)(6) defines genocide by repatriation as the willful and forcible transfer of the children of the group as a means of effecting the destruction of the group.

Subsection (b) proscribes attempted genocide and public incitement to genocide, in order to comply with Article III of the Convention. In this regard, it is unnecessary to proscribe complicity in genocide, as required by Article III, since this inchoate offense would be covered, 18 U.S.C. 2 (principals), and 18 U.S.C. 3 (accessory after the fact).

Subsection (b) also sets forth the penalties for genocide and related offenses. Like the penalties for violations of other criminal statutes, increased penalties are provided if death results.

Section 2 of the bill would provide that the remedies in it are the exclusive means of enforcing the rights based on it, thus excluding civil remedies, but would also express the Congressional intent not to preempt State law in the field.

Section 3 of the bill would express the sense of the Congress that extradition treaties negotiated (pursuant to Article VII of the Convention) shall provide protection for Americans against double jeopardy for genocidal acts committed abroad if they have been proceeded against in the United States or if the United States intends to exercise its jurisdiction. See Senate Ex. Rep. 93–5, p. 11–12. This section is included because the draft statute would make it possible for the United States to assert jurisdiction over citizens of this country in cases of alleged genocide where the facts giving rise to the case took place outside United States territory. As a result it is possible that there may be situations where both the United States and another country will have jurisdiction to try someone for the same alleged offense. The statutes of the United States are not directed to the issue of who exercises jurisdiction, but leave the answer to the text of the extradition treaty involved. 18 U.S.C. 3184. See, for example, Treaty of Extradition with Brazil, 15 U.S.C. 2094, Art. V., which is the source of the language for this section. The Secretary of State is directed to ensure that future extradition treaties which treat genocide as an offense for which extradition may be granted shall reserve to the United States in cases where double jurisdiction exists the right to try its own citizens rather than grant extradition. Clause (b) of the section is, as a matter of policy, presently included in all extradition treaties.

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By Mr. BAKER:

S. 1759. A bill authorizing further appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes. Referred to the Committee on Public Works.

Mr. BAKER. Mr. President, I am today introducing, for appropriate referral, a

bill that would extend the authorization for Federal support of the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts.

This legislation was proposed by the administration, and I am pleased to sponsor it on their behalf.

The present authorization for nonperforming arts activities—maintenance, security, and information and interpretive services—expires on June 30, 1973. This new proposal would provide an open ended authorization. While I believe it is generally more appropriate for the Congress to specify dollar authorizations over specific periods of time, the Congress should give this proposal very careful consideration.

The Department of the Interior estimates that it will need approximately $2,400,000 in fiscal 1974 to carry out the Center's nonperforming arts functions, with the annual cost expected to rise to $2,600,000 by fiscal 1978.

Mr. President, to give my colleagues a fuller understanding of this legislation, I ask unanimous consent that a copy of the bill, together with a copy of a letter from Assistant Secretary of Interior Nathaniel P. Reed, and a chart showing the expected spending levels under the proposed legislation, be inserted at this point in the CONGRESSIONAL RECORD.

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

S. 1759

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the second sentence of subsection (e) of section 6 of the John F. Kennedy Center Act (72 Stat. 1698), as amended, is amended to read as follows: "There are hereby authorized to be appropriated such sums as may be necessary for carrying out this subsection."

U.S. DEPARTMENT OF THE INTERIOR,
*Washington, D.C.*

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

DEAR MR. PRESIDENT: Enclosed is a draft of a proposed bill "Authorizing further appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes."

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

Section 10 of the Public Buildings Amendments of 1972 (86 Stat. 216, 222), approved June 16, 1972, added a new subsection (e) to section 6 of the John F. Kennedy Center Act, as amended. The new subsection directed the Secretary of the Interior, acting through the National Park Service, to provide maintenance, security, information, interpretation, janitorial, and all other services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts. It authorized sums as may be necessary to carry out these functions, but only for the fiscal year ending June 30, 1973.

The enclosed draft bill would amend the appropriation authorization in subsection 6(e) to delete the language limiting the authorization to fiscal year 1973, thus permitting the National Park Service to continue to receive appropriations after 1973 for carrying out nonperforming arts functions for the Center.

This Department looks forward to providing the maintenance, security, and other services and to developing a public interpretive program similar in quality to the services and programs for other memorials in the Washington, D.C., area, such as the Washington Monument, Lincoln Memorial, and Jefferson Memorial.

On October 4, 1972, this Department entered into an agreement with the Board of Trustees for the Kennedy Center whereby interpretation and information services, maintenance services, and utilities and janitorial services, as related to the nonperforming arts functions, would be supplied by the Secretary.

The Center is currently estimated to be valued at more than $70 million, and visitation to the Center surpassed 2.5 million visits in fiscal year 1972, with 15,000 to 20,000 visitors per day during peak periods. This visitation is exclusive of that solely connected with the performing arts functions of the Center. We estimate that to provide quality maintenance, security, and interpretation befitting this memorial to a former President would require a total of $2,400,000 in the first year following enactment of the proposed bill. This amount would be required for the nonperforming arts functions alone. An additional $586,000 will be incurred for the expenses attendant to utilities and other services associated with performing arts functions, but we would be reimbursed for those expenses by the Board of Trustees of the Center. During the fifth year following enactment and thereafter, annual costs to this Department under section 6 of the Act are expected to reach $2,600,000.

To maintain and interpret the nonperforming arts functions of the Center at the proper standard for the public will require about 80 permanent employees and 15 man-years of seasonal personnel. The permanent personnel include 12 guards and 13 U.S. Park Police officers as well as building engineers, carpenters, a plasterer, a painter, gardeners, plumbers, and electricians. The total annual cost for personnel services and benefits is estimated to be $990,000. Other costs attributable to nonperforming arts functions include uniform allowances, utilities, and a janitorial contract.

We urge timely and favorable action on the enclosed proposal in view of the approaching expiration of the appropriation authorization with which the proposed bill deals.

The Office of Management and Budget has advised that there is no objection to the presentation of this draft bill from the standpoint of the Administration's program.

Sincerely yours,

NATHANIEL P. REED,
*Assistant Secretary of the Interior.*

U.S. DEPARTMENT OF THE INTERIOR

EXTENSION OF THE JOHN F. KENNEDY CENTER NONPERFORMING ARTS FUNCTIONS

| | 1st year | 2d year | 3d year | 4th year | 5th year |
|---|---|---|---|---|---|
| Estimated expenditures and obligations: | | | | | |
| Personnel services, including benefits | $990,000 | $990,000 | $990,000 | $990,000 | $990,000 |
| Uniform allowance | 4,000 | 4,000 | 4,000 | 4,000 | 4,000 |
| Utilities | 550,000 | 550,000 | 550,000 | 550,000 | 550,000 |
| Janitorial contract | 507,000 | 507,000 | 507,000 | 507,000 | 507,000 |
| Other supporting costs | 349,000 | 449,000 | 549,000 | 549,000 | 549,000 |
| Total operating costs | 2,400,000 | 2,500,000 | 2,600,000 | 2,600,000 | 2,600,000 |
| Total man-years: | | | | | |
| Permanent | 82 | 82 | 82 | 82 | 82 |
| Seasonal | 15 | 15 | 15 | 15 | 15 |

By Mr. MAGNUSON (for himself, Mr. COTTON, and Mr. INOUYE) (by request):

S. 1761. A bill to foster fuller U.S. participtipn in international trade by the promotion and support of representation of U.S. interests in international voluntary standards activities, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to foster fuller U.S. participation in international trade by the promotion and support of representation of U.S. interests in international voluntary standards activities, and for other purposes, and ask unanimous consent that the letter of transmittal, statement of purpose and need, and the section-by section analysis be printed in the RECORD with the text of the bill.

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

S. 1761

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

SECTION 1. This Act may be cited as the International Voluntary Standards Cooperation Act of 1973".

SEC. 2. The Congress finds that participation in the development of international voluntary standards and appropriate use of such standards by United States industry can contribute significantly to the growth of international trade and prosperity. The Congress further finds that the effectiveness of United States participation in the development and adoption of voluntary standards is increased by cooperation between Government and industry in standards matters and that such cooperation can be improved by providing within the Government a focus for international voluntary standards activities. The Congress, therefore, declares that the purposes of this Act are to promote and support adequate representation of the United States interest in international voluntary standardization activities, in a manner consistent with maintaining and fostering competition in commerce, for the benefit of producers, distributors, employees, users, consumers, and the general public; to promote international trade through mutually appropriate implementation of international voluntary standardization agreements; and to improve the balance of trade and balance of payments of the United States.

SEC. 3. As used in this Act—

(a) "Secretary" shall mean the Secretary of Commerce.

(b) The term "voluntary standards" shall mean engineering and commodity voluntary standards for products, processes, procedures, conventions, test methods, and the physical, functional, and performance characteristics thereof where acceptance and use of such standards by all persons or by a specified class of persons is not required by State or Federal law or regulation.

(c) The term "international voluntary standard" shall mean a voluntary standard deevloped for use within the territory of two or more countries.

(d) The term "international standards assurance system" shall mean an agreement between competent governmental or nongovernmental bodies in two or more countries which provides for the mutual recognition of national or regional programs to assure that a product, process, convention, or test method, or the physical functional, or performance characteristic thereof complies with an identified international voluntary standard.

(e) "International standardization activities" shall mean the negotiation, development, adoption, or utilization of international standards assurance systems.

(f) "Antitrust laws" shall mean those laws defined as such in sections 12 and 44, title 15, United States Code, and the Federal Trade Commission Act, sections 41–58, title 15, United States Code, including all amendments to such laws and Acts, and any other laws of the United States on antitrust and unfair methods of competition.

SEC. 4. The Secretary is hereby assigned principal responsibility within the Federal Government for international standardization activities. He shall:

(a) Identify international standardization activities which may substantially affect the commerce of the United States and wherein participation by domestic organizations is insufficient to assure that the interests of the United States are adequately protected.

(b) Provide for appropriate participation by private or governmental bodies of the United States in such standardization activities.

(c) Encourage the use of international voluntary standards within the United States where he determines that it is in the public interest to do so.

SEC. 5. In performing his functions under this Act the Secretary shall:

(a) Inform and consult with the Secretary of State, with respect to any contemplated action which involves the international relations of the United States.

(b) Assure that optimum use is made of private capabilities and resources.

SEC. 6. (a) The Secretary is authorized to establish arrangements to provide for appropriate representation of United States interests in international standardization activities through private nonprofit organizations. Arrangements established under this subsection shall include provision to assure that the interests of producers, suppliers, distributors, users, consumers, employees, and the general public are adequately represented. Such arrangements shall include guidelines for private organizations representing United States interests in international standardization activities under this Act to insure that the negotiating positions of such organizations will be in the public interest and shall provide a reasonable opportunity to the Secretary or his designee to review the proposed negotiating positions of such organizations to determine that they are in the public interest.

(b) The Secretary (1) is authorized to conduct such investigations and studies by contract or otherwise as may be necessary to carry out his functions under this Act, and (2) shall, in cooperation with affected parties, examine the potential impact on international trade and the balance of trade and balance of payments of the United States, of international standards assurance systems and related activities.

(c) The Secretary may enter into grants, contracts, or other arrangements (including the supplying of services of Government employees) to assist any private nonprofit organization in the performance of international standardization activities in furtherance of an arrangement established under subsection (a) of this section.

(d) Where United States participation in international standards assurance systems is deemed to be in the public interest, the Secretary may establish a system for the evaluation and accreditation of private domestic organizations which seek to confirm their technical capability to conduct tests or to evaluate the test procedures used by others for the purpose of documenting compliance with a standard: *Provided, however,* That prior to establishing such evaluation and accreditation system the Secretary shall:

(1) consult with affected private organizations and the Committees established under section 12, and

(2) publish in the Federal Register a notice of his intent to establish such a system. Such notice shall include a brief description of the proposed system and an invitation for any person, within thirty days or such other time as the Secretary designates after the date of publication of such notice, to submit comments with regard to the proposed system.

(e) Notwithstanding the provisions of Revised Statutes, section 3648, the Secretary may make payments in advance of the performance of service or the delivery of articles but he shall regulate the timing and amount of such payments with the objective of minimizing the time elapsing between disbursement from the Treasury and use of the funds by the recipient.

SEC. 7. In each determination of the public interest as required by sections 4, 6, 9, 12, and 13 of this Act, among the factors to be considered shall be the following:

(a) The technical adequacy of and need for any proposed international voluntary standard or international standards assurance system and whether such standard or system is appropriate and reasonably limited to meeting the need.

(b) The effects of the international standardization activity on the public and occupational health and safety or the quality of the environment, taking into account applicable public health, safety, or environmental quality regulations, directives, and standards.

(c) The extent to which an international voluntary standard or international standards assurance system being considered is supported by affected producers, suppliers, users, distributors, consumers, employees, and the general public.

(d) The effects on the balance of trade and balance of payments of the United States.

*Provided, however,* That the public interest finding shall not be made if the international standardization activity is inconsistent with the antitrust laws.

SEC. 8. Where the Secretary determines, after consultation with affected private organizations and the committees established under section 12, that private participation in international standardization activities under arrangements established under section 6(a) has been insufficient to serve the purposes of this Act, he shall establish arrangements and procedures for governmental participation in international standardization activities to the extent necessary.

SEC. 9. Unless it is not in the public interest to do so, the Secretary shall list, under a classification system to be devised by him, each international voluntary standard, international standards assurance system, or any modification thereof negotiated or developed pursuant to this Act. Each listed standard and a full description of each listed international system shall be available to the public, preferably from one or more of the private organizations involved in its development. If such standards and standards systems are not available privately, the Secretary shall make them available: *Provided, however,* That prior to listing an international voluntary standard or an international standard assurance system the Secretary shall—

(1) consult with affected private organizations and the Committees established under section 12, and

(2) publish in the Federal Register a notice of his intent to list such standard or system. Such notice shall include a brief description of the standard or system and an invitation for any person, within thirty days or such other time as the Secretary designates after the date of publication of such notice, to submit comments with regard to the listing of the standard or system.

SEC. 10. (a) Each department and agency of the Federal Government shall encourage appropriate use of applicable international voluntary standards listed pursuant to section 9 and shall give appropriate recognition to international standards systems listed pursuant to section 9 in the procurement of supplies or services for its use.

(b) Any department or agency of the Federal Government may provide technical assistance to the Secretary on a reimbursable or nonreimbursable basis and may supply special technical services of its employees to assist private nonprofit organizations in the performance of international standardization activities under this Act. The Secretary shall be currently informed of any special technical services of employees furnished by a department or agency of the Federal Government in assisting private nonprofit organizations in the performance of international standardization activities.

SEC. 11. (a) The Secretary may establish such policies and prescribe such rules, regulations, and procedures as he may deem necessary for the administration of this Act and to carry out the functions authorized hereunder.

(b) Where information is furnished or services rendered under section 6(d) and section 9, he may establish reasonable fees or charges therefor. Amounts received as a result of such fees or charges may be deposited to the credit of the appropriation or fund against which the cost of performing the services was charged.

SEC. 12. (a) To provide policy guidance and to assist the Secretary in carrying out his responsibilities under this Act, there shall be established (1) an Interagency Committee on Standards Policy consisting of members representing the Departments of Agriculture, Defense, Justice, Interior, State, Housing and Urban Development, Commerce, Labor, Treasury, Health, Education, and Welfare, and Transportation, the General Services Administration, the National Aeronautics and Space Administration, the Federal Communications Commission, the Atomic Energy Commission, the Environmental Protection Agency, the Federal Trade Commission, and such other agencies as the Secretary deems advisable, and (2) a Public Committee on International Standards Policy consisting of members representing consumers' organizations, users, manufacturers, suppliers, distributors, employees, environmental organizations, and experts in international standards and standards assurance systems. The Secreatry or his representative shall be the Chairman of the Committees.

(b) The Secretary may also consult with the Committee in considering whether a particular international standardization activity would be in the public interest, and in any event shall consult with the Committees concerning an international standardization activity upon the request of a member of either Committee who shall be kept advised of all proposed international

standardization activities pending before the Secretary.

SEC. 13. (a) The Federal Trade Commission may at any time petition the Secretary of Commerce for the removal of a voluntary international standard listed under section 9 on the grounds that such standard is contrary to the public interest, giving due regard to the provisions of section 7 of this Act.

(b) The petition shall contain facts and information supporting the action requested.

(c) After receipt of the petition, the Secretary will initiate an informal hearing under section 553 of title 5, United States Code, on the issues raised in the petition. The Secretary shall designate a hearing examiner and give reasonable notice of the hearing, an opportunity for interested persons to participate in the hearing through the submission of written data, views, or arguments, and, if requested by the Federal Trade Commission, the Secretary shall hold a hearing in which interested persons shall have a reasonable opportunity to present the same orally in an appropriate manner. The testimony in any such hearing shall be reduced to writing, shall be filed in the Office of the Secretary, and, together with written submissions, shall constitute the record. After consideration of all relevant matter presented upon such record, the hearing examiner will make findings of fact and conclusions of law. Such findings and conclusions, together with the record, shall be reviewed by the Secretary who shall make a decision based on the record whether or not to delist the voluntary international standard as requested by the petitioner, such decision shall include findings and conclusions of the Secretary.

(d) The Federal Trade Commission, through its own attorneys, may file, within sixty days after the publication of the decision of the Secretary not to delist a voluntary international standard, a petition with the United States District Court for the District of Columbia for a judicial review of such decision. The Secretary shall file in the court the record of the informal hearing conducted under section 553 of title 5, United States Code, including the findings and conclusions of the hearing examiner and the decision of findings and conclusion of the Secretary. Upon the filing of a petition the court shall have jurisdiction to review the decision of the Secretary not to delist a voluntary international standard in accordance with chapter 7 of title 5 of the United States Code, including that provision that the decision of the Secretary be supported by substantial evidence on the basis of the entire record before the court (including any additional evidence adduced). Upon a showing that the decision of the Secretary is not supported by substantial evidence on the record taken as a whole, the voluntary international standard so listed may be ordered removed by the court and other appropriate relief granted.

SEC. 14. No international standardization activity engaged in by any person, entity, or organization, with or without participation or approval by governmental bodies of the United States, shall be exempted or immunized from the operation of the antitrust laws.

SEC. 15. On or before the 31st day of January of each year, the President shall transmit to the Congress an annual report for the preceding fiscal year. Such reports shall include a comprehensive statement of the activities under this Act and may include such recommendations as the President deems appropriate. The Secretary, with the assistance of the Committees established in section 12, shall provide such information and assistance as the President may require for the preparation of the report.

SEC. 16. (a) Each recipient of moneys under a grant or contract awarded pursuant to this Act shall keep such records and make such reports as the Secretary may prescribe, including infomation on the total cost of the approved program and the portion of the cost which is supplied by other sources. In the case of moneys received in advance of performance, such records, and reports shall identify the unearned balance of advances on hand, the liabilities and obligations outstanding under such grant or contract, and the application of the funds received.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the recipient that are pertinent to its voluntary standards activities under this Act for the purpose of audit or to determine whether a proposed international voluntary standard or international standards system is in the public interest.

SEC. 17. The negotiation, development, or listing of any voluntary standard or international standards assurance system pursuant to this Act shall not affect any law or any order, requirement, or regulation promulgated by an agency of the Federal government, nor shall this Act preempt in any way international military standardization activities conducted by the Department of Defense.

SEC. 18. Review of any determinations made by the Secretary pursuant to section 6(d) or section 9 of this Act may be had in the manner provided in title V, chapter 7 of the United States Code.

SEC. 19. Nothing in this Act shall be construed to supersede the provisions of sections 2 and 4 of the Act of March 16, 1968 (Public Law 90-268), which amends section 302(f) of the Act of June 30, 1949 (41 U.S.C. § 252).

SEC. 20. There are hereby authorized to be appropriate such sums as may be necessary to carry out the provisions of this Act. Appropriations to carry out the provisions of this Act may remain available for obligation and expenditure for such period or periods as may be specfied in the Acts making such appropriations.

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THE SECRETARY OF COMMERCE,
*Washington, D.C., April 5, 1973.*

Hon. SPIRO T. AGNEW,
*U.S. Senate,*
*Washington, D.C.*

DEAR MR. PRESIDENT: Enclosed are four copies of a draft bill:

"To foster fuller United States participation in international trade by the promotion and support of representation of United States interest in international voluntary standards activities, and for other purposes." to be cited as the "International Voluntary Standards Cooperation Act of 1973," together with a statement of purpose and need in support thereof.

We have been advised by the Office of Management and Budget there would be no objection to the submission of our draft bill to the Congress and further that its enactment would be consistent with the Administration's objectives.

Sincerely,

———— ————,
*Secretary of Commerce.*

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STATEMENT OF PURPOSE AND NEED

The Nations which engage in substantial international trade are largely those which we term "industrialized." One significant element of their industrialization has been the adoption and use of engineering and manufacturing standards which are the building blocks of successful production.

The establishment and use of standards permits decentralization of manufacturing plants, locating them most advantageously with respect to energy sources, raw materials, labor force and markets thereby enabling the greatest number of companies, large and small, to share in industrial activity. The existence of standards fosters innovation and the establishment of new businesses by assuring both the entrepreneur and the customer that new products meet accepted norms. It allows specialization of labor and also facilitates control and automation of production processes. Voluntary adoption of standards by United States industry has stimulated the growth of the American economy.

Just as the use of standards has stimulated our domestic economic growth, the growth of international trade may also be stimulated by use of such standards internationally. Differences in language, legal systems and terminology, plus the distance between buyer and seller, constitute obstacles which are smoothed when there are mutually understood standards which describe products that the purchaser can specify and the seller can supply. The development of an effective system of international standards requires the participation and cooperation of all interested parties. Under such a system of international standards, all nations would be able to exploit their special skills and technologies so as to participate more fully in world economic activity, benefiting not only themselves but other nations as well.

The development of an international system of standards would provide the atmosphere in which the United States could trade in world markets on an equal footing with other nations, not handicapped by standards that are incompatible with our own.

Recognition of the need for harmonization of national standards has led to the creation of international standards bodies of a nontreaty nature, notably the International Organization for Standardization and the International Electrotechnical Commission. These organizations work to produce international standards compatible with the needs of their members. Many of the national bodies represented in these international standards organizations receive policy guidance and funds from their governments. The notable exception is the United States where the federal role in international standards activities has been largely one of providing technical information and the services of technical experts.

Where there has been U.S. participation in international non-treaty standards work, the support provided to the U.S. member bodies has generally come from those U.S. firms which see a relationship between specific international standards and their business success. This has two consequences.

First, participation in the development of international standards work has been uneven, with effective participation in some areas, such as automatic data processing, while other areas have received little support.

Inadequate U.S. participation in international standards development tends to place American goods at a disadvantage in the market places of the world. Differences in European and American color television standards were dramatically emphasized when satellite communication became possible. Complex converters had to be introduced to allow interchange of programs. Moreover, U.S. television programs cannot be taped here and fed directly into transmitters of European origin. Adoption by the Europeans of a color television system incompatible with ours is estimated to have cost U.S. industry many million of dollars.

A second consequence of the largely private nature of the support given to U.S. international standardization activities is that the impact of standards upon small firms, consumers, and U.S. foreign policy objectives often receives insufficient attention. An objective long-range approach to international standards development is clearly needed since the goals are sometimes public as well as private, as in cases where the issue of safety arises. The bill would provide for appropriate participation by all affected U.S. interests in international standardization activities, thus promoting international trade

while assuring that the legitimate interests of consumers and small businesses are protected. Cooperation with foreign standards-making bodies, with provision for appropriate policy guidance by the Secretary of Commerce, as provided in the bill will best foster development of international standards which serve the public interest.

European countries striving to reduce intra-European trade barriers began efforts to coordinate standards at the regional level in the early 1960's. Members of the national standards bodies of the Common Market and EFTA nations formed the European Standards Coordinating Committee (CENEL).

More recently, the United Kingdom, France, and Germany formed a Tripartite Committee to bring together the authority of these governments and the technical knowledge of the national standards bodies in the effort toward total harmonization in the standards area. A final draft of the Tripartite Accord on Electronic Components was completed in April 1970. This Accord describes the rules for a "total harmonization" scheme for electronic components. It includes provisions for agreeing on common standards; rules for the operation of an international quality assurance system; and finally a system of applying a "mark of conformity" indicating compliance with the rules of the Accord. The membership in the Accord is presently restricted to Western European countries.

Several features of this Accord may point out the general pattern for other classes of products. First, the Accord calls for an "authorized institution" in each country to operate the harmonized system. The makeup of this institution can be either governmental, private, or a combination of both, but it must be authorized to speak with authority on behalf of all interests in the country, government and industry. The "authorized institution" must provide for product testing by approved laboratories to assure compliance with the applicable standard and for the use of a mark or stamp certifying that the tested product conform to the standard. The mark of conformity must be accepted by all participating countries without further testing.

This type of harmonization of national standards between countries can serve to expand international trade between the participating nations. However, exclusive arrangements for product testing and certification procedures become non-tariff barriers against those nations which are not participating because those products which do not bear an accepted mark of conformity from an authorized institution may have to undergo the expense of further testing.

Ideally, the best system for international certification of compliance with an approved standard would be self-certification by each manufacturer. This would provide the simplest and most economical method of operating such a system and would involve a minimum of governmental involvement. A system of self-certification would require an effective sanction for improper certification. While self-certification best promotes international trade, national certification by an authorized institution accepted in each of the participating nations may also serve to promote international trade provided that participation in the certification system is open to nationals of all countries. Participation in such a system requires a much higher degree of coordination and cooperation between government agencies and private standards bodies than presently exists. The bill would enable the United States interests to participate effectively in the development of such international certification arrangements.

The Department of Commerce, as well as many other government agencies, have traditionally provided technical support to the activity of U.S. industry in voluntary developing engineering standards for the United States. Since 1921 the National Bureau of Standards has provided industry and commerce of the United States with substantial technical and administrative assistance in the development and publication of standards for products and commodities and of simplified practices directed at the reduction of sizes and styles. Professional personnel of the government have served on technical committees of many domestic standardization bodies and a limited number of international committees have led in the development of technically competent engineering standards oriented principally to performance criteria.

The Department also has general responsibilities for fostering foreign and domestic commerce. However, there is no specific authorization which focuses the governmental involvement in international standards work in the Department. The authority to establish procedures for working with the private sector in the field of international standards are not clearly spelled out in existing legislation. A purpose of this bill is to provide these mechanisms needed for U.S. interests to participate effectively in the development of voluntary international standards.

The Department of Commerce would serve as a focus for the efforts of the Federal Government. There are, however, many Federal agencies concerned with the engineering standards, so that the Federal role would involve more than the Department of Commerce alone. Today, the Interagency Committee for Standards Policy assists in establishing Federal policy in the standards area.

Activities under the proposed leigslation will expand the need for a unified Federal policy. The bill would establish an interagency committee to supplant the existing committee. This committee and a committee composed of representatives of consumers' organizations, users, manufacturers, suppliers, distributors, environmental organizations and experts in international standards and standards assurance systems would provide policy guidance to the Secretary and assist him in carrying out his functions under the bill.

The proposed legislation would clarify the authority of the Department of Commerce to promote voluntary international standardization activities. It would also provide authority for the issuance of grants to qualified private non-profit organizations for the promotion and development of international standards. Only where development of standards through private participation is shown to be inadequate to protect the public interest would the Secretary of Commerce assume a larger role.

This expanded role of the Government in stimulating the development of compatible international standards is necessary if barriers to the interchange of goods and services are to be minimized and a competitive free economy in the world market maintained. An effort to increase common or compatible international standards, to reconcile standards differences, and to help develop as broad a trade base as possible in international markets is essential. The proposed legislation is aimed at supporting the development of a strong and growing trade in present markets and markets of tomorrow through early and effective participation in international standards activities, on the part of U.S. industry, professional organizations, representatives of the consumer, and the Federal Government.

The proposed legislation will enable the Federal Government to foster U.S. participation and cooperation with foreign standards-making bodies in their standards activities. By means of such cooperation and participation, its basic purpose is to encourage and promote the generation or adoption of standards compatible with American interests.

It is estimated that Commerce activities under the proposed legislation will require funding of $1,000,000 in the first full year of operation.

SECTION-BY-SECTION ANALYSIS

Section 1 provides that the short title of the Act is the "International Voluntary Standards Cooperation Act of 1973".

Section 2 states that the Congress finds that participation in the development of international voluntary standards and appropriate use of such standards by United States industry can contribute significantly to the growth of international trade and prosperity. The Congress further finds that the effectiveness of American participation in standards activity is increased by cooperation between Government and industry and that such cooperation can be improved by providing a focus within the Government for these activities. The Congress declares that the purposes of the Act are to promote and support adequate representation of United States interests in international standardization activities for the benefit of producers, distributors, employees, users, consumers, and the general public; to promote international trade through mutual appropriate implementation of international voluntary standardization agreements; and to improve the balance of trade and balance of payments of the United States.

Section 3 defines certain terms used in the Act. The term "voluntary standards" is defined to include engineering and commodity standards.

Section 4 formally designates the Department of Commerce as the focus for international standardization activities within the Federal Government. The Secretary is responsible for identifying international standardization activities which may substantially affect American commerce, assure sufficient American representation in standards activities in an appropriate manner, and encourage use of international voluntary standards within the U.S. where he determines it is in the public interest to do so.

Section 5 requires the Secretary of Commerce in performing his functions under the Act to inform and consult with the Secretary of State regarding any contemplated action involving the international relations of the United States and to assure that optimum use is made of private capabilities and resources.

Subsection 6(a) authorizes the Secretary to establish arrangements for United States representation through private nonprofit organizations and provides that such arrangements contain certain minimum safeguards to protect all affected persons including consumers. The arrangements include guidelines for private organizations representing United States interests in international standardization activities under this legislation to insure that the negotiating positions of such organizations will be in the public interest. Such guidelines shall also provide a reasonable opportunity for the Secretary or his delegate to review the proposed negotiating positions of such organizations to determine that they are in the public interest.

Subsection 6(b) authorizes the Secretary to conduct any investigations and studies by contract or otherwise as may be necessary to carry out his functions under the bill. The Secretary is also required in cooperation with affected parties to examine the potential impact of international standards assurance systems and related activities on international trade and the balance of payments in the United States.

Subsection 6(c) authorizes the Secretary to make available financial assistance, including the services of Government employees, to assist competent private nonprofit organizations in the performance of their international standardization activities under the arrangements established under subsection 6(a).

Under subsection 6(d), when United States participation in international standards assurance systems is deemed to be in the public interest, the Secretary of Commerce may

establish a system for the evaluation and accreditation of testing laboratories or for organizations which oversee the work of testing laboratories. However, prior to establishing such a system the Secretary shall consult with affected private organizations and the Committees established under section 12 and shall publish in the Federal Register a notice of his intent to establish such a system. Such notice shall include a description of the proposed system and an invitation to submit comments within thirty days or any other period designated by the Secretary with regard to the proposed system. This section is designed to meet those situations in which a nationally recognized certification body is required as a condition for a country's participation in a reciprocal international certification system and in which United States participation is deemed in the public interest.

Subsection 6(e) provides for means of payments in advance of the performance of service or the delivery of articles in international standardization activities.

Section 7 states certain factors which must be considered in determining questions of public interest under the Act. These factors are the technical adequacy of and need for a standard, the effects of the international standards activity on the public and occupational health, safety or the quality of the environment, the support a proposed standard or standards assurance system enjoys from affected producers, suppliers, users, distributors, consumers, employees, and the general public and the effects of a proposed standard or standards assurance system on the balance of trade and the balance of payments of the United States. A general proviso is included that there shall be no public interest determination if the standard is inconsistent with the antitrust laws.

Section 8 requires the Secretary, after consultation with affected private organizations and the committees established under section 12, to establish arrangements for governmental participation in international standardization activities where private participation in such activities has proved insufficient to serve the purposes of the Act.

Section 9 establishes a listing procedure whereby the Secretary shall list, if it is in the public interest to do so and under a classification system to be devised by him, each international voluntary standard, international standards assurance system or any modification thereof negotiated and developed under the Act. To make the standards available to the general public, the Act requires that the established standard and a full description of each listed international system shall be available to the public through private organizations or the Federal Government. This section also provides that prior to listing an international voluntary standard or an international standards assurance system, the Secretary is required to consult with affected private organizations and the Committees established by section 12 and to publish notice of his intent to list such a standard or system in the Federal Register. The Act provides such notice shall include a description of the standard or system and an invitation within thirty days or any other period designated by the Secretary following publication of the notice to interested persons to file comments concerning the listing of the standard or system.

Subsection 10(a) encourages use of standards developed under the Act and listed by the Secretary in Federal procurement.

Subsection 10(b) authorizes Federal agencies to participate in the standardization activities on a reimbursable or nonreimbursable basis and specifically authorizes these agencies, with the knowledge of the Secretary, to provide the technical services of its employees to assist private nonprofit organizations in performing their activities under the Act.

Subsection 11(a) authorizes the Secretary to establish policies and procedures to administer the Act.

Subsection 11(b) provides that the Secretary may charge for the evaluation of laboratories performed under subsection 6(d) and for the supplying of lists or full texts of standards under section 9. It also authorizes him to use the fees received to reimburse the appropriation or fund which supported the service performed.

Section 12 establishes two committees to assist the Secretary by providing policy guidance and assistance in implementing this proposed Act. An Interagency Committee on Standards Policy of representatives of the Departments of Agriculture; Defense; Justice; Interior; State; Housing and Urban Development; Commerce; Labor; Treasury; Health, Education, and Welfare; and Transportation; the General Services Administration; the National Aeronautics and Space Administration; the Federal Communications Commission; the Atomic Energy Commission; the Environmental Protection Agency; the Federal Trade Commission; and such other agencies as the Secretary deems advisable is established. The second committee established is a Public Committee on International Standards Policy consisting of representatives of consumer organizations, users, manufacturers, suppliers, distributors, employees, and experts. The Secretary will be free to consult with the committees on the question of public interest determination and shall consult with the committees concerning any international standardization activity upon the request of a member of either committee.

Subsection 13(a) provides that the Federal Trade Commission, giving due regard to the provisions of section 7, may at any time petition the Secretary of Commerce for the removal of a voluntary international standard listed under section 9 on the grounds that such standard is contrary to the public interest.

Subsection 13(b) provides that the petition shall contain facts and information supporting the action requested.

Subsection 13(c) requires the Secretary to initiate an informal hearing under section 553 of title 5, United States Code, on the issues raised in the petition. The Secretary shall designate a hearing examiner and give reasonable notice of the hearing and an opportunity for interested persons to participate in the hearing through submission of written comments or, if requested by the FTC, through oral presentations. The record is composed of a written record of the testimony in any such hearing and the written submissions. The hearing examiner then makes findings of fact and conclusions of law. The Secretary reviews these findings and conclusions together with the record and decides whether to delist the standard. The Secretary's decision shall include his findings and conclusions.

Subsection 13(d) allows the FTC, through its own attorneys, to file, within sixty days after publication of the Secretary's decision, a petition with the U.S. District Court for the District of Columbia for judicial review of such decision. The Secretary then files with the Court the record of the informal hearing, including the findings and conclusions of the hearing examiner and the Secretary. The Court shall have power to review the decision of the Secretary in accordance with chapter 7 of title 5, United States Code. The standard for review is that the decision must be supported by substantial evidence on the basis of the entire record before the Court, to include any additional evidence adduced. Upon a showing that the decision of the Secretary is not supported by substantial evidence on the record taken as a whole, the standard so listed may be ordered removed by the Court and other appropriate relief granted.

Section 14 provides that no international standardization activity engaged in by any person, entity or organization, with or without participation or approval by governmental bodies of the United States, shall be exempted from the operation of the antitrust laws.

Section 15 requires the President to submit to Congress on or before the 31st day of January of each year an annual report for the preceding fiscal year. Such reports shall include a comprehensive statement of the activities under the Act and may include such recommendations as the President may deem appropriate. The Secretary shall provide such information and assistance as the President may require for the preparation of the report.

Subsection 16(a) provides that each recipient of moneys under a grant or contract awarded under the Act shall keep such records and make such reports as the Secretary may prescribe to include information on the total cost of the approved program and the portion of the cost which is supplied by other sources. In the case of moneys received in advance of performance, such records and reports shall identify the unearned balances of advances on hand, the liabilities and obligations outstanding under such grant or contract and the application of the funds received.

Subsection 16(b) provides that the Secretary and the Comptroller General of the United States or their duly authorized representatives shall have access to any books, documents, papers, and records of the recipient that are pertinent to its voluntary standards activities under the Act for the purpose of audit or to determine whether a proposed international voluntary standard or international standards system in the public interest.

Section 17 provides that the negotiation, development, or listing of any voluntary standard or international standards system pursuant to the Act shall not affect any law or order, requirement or regulation promulgated by an agency of the Federal government. Further, the Act shall not preempt in any way international military standardization activities carried on by the Department of Defense.

Section 18 specifies that review of any determinations made by the Secretary pursuant to section 6(d) or section 9 may be had in the manner provided in chapter 7 of title 5 of the United States Code.

Section 19 provides that nothing in the Act is intended to modify or repeal P.L. 90-268, which prohibits the Federal Government from discriminating among steamship carriers by unnecessarily specifying sizes for containers.

Section 20 authorizes such appropriations as may be necessary to carry out the purposes of the Act and provides that such appropriations may remain available for obligation and expenditure for such periods as may be specified in the appropriation act.

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By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 1762. A bill to amend section 27 of the Merchant Marine Act of 1920, to provide a monetary penalty for the transportation of merchandise in violation of the coastwise laws. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend section 27 of the Merchant Marine Act of 1920, to provide a monetary penalty for the transportation of merchandise in violation of the coastwise laws, and I ask unanimous consent that changes in existing law be printed in the RECORD with the text of the bill, together with the letter of transmittal.

There being no objection, the material

was ordered to be printed in the RECORD, as follows:

S. 1762

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the first sentence of section 27, Merchant Marine Act of 1920, as amended (46 U.S.C. 883), is further amended by deleting the word "thereof" where it first appears and by inserting in lieu thereof "of the merchandise (or the value thereof to be recovered from any consignor, seller, owner, consignee, agent or other person or persons so transporting or causing said merchandise to be transported)".

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THE SECRETARY OF THE TREASURY,
*Washington, D.C., March 30, 1973.*

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

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill, "To amend section 27 of the Merchant Marine Act of 1920, to provide a monetary penalty for the transportation of merchandise in violation of the coastwise laws."

Section 27 of the Merchant Marine Act of 1920, as amended (46 U.S.C. 883), generally prohibits the transportation of merchandise between points in the United States in vessels other than vessels built and documented under the laws of the United States or owned by citizens of the United States. Presently the exclusive penalty for violations of the section is the forfeiture of the merchandise involved. Seizing the merchandise creates enormous administrative problems such as storage of the merchandise, disposition of perishable cargoes, transportation of bulk shipments, and assignment of Customs personnel to make necessary arrangements. The proposed legislation would as an alternative to the seizure of the merchandise provide for the assessment of a monetary penalty on the value of the merchandise against the vessel owner, agent or operator, or against persons such as the consignee, with a commercial interest in the importation. As under existing law, the Secretary of the Treasury would be authorized to remit or mitigate any penalty or foreiture assessed under the section.

The Department urges enactment of the proposed legislation in order to provide Customs officials with a more effective and administratively easier means of enforcing section 27 of the Act.

There is enclosed a comparative type showing the changes that would be made in existing law by the draft bill.

It will be appreciated if you will lay the enclosed draft bill before the Senate. A similar proposal has been transmitted to the House of Representatives.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely yours,

GEORGE P. SHULTZ.

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COMPARATIVE TYPE SHOWING CHANGES IN EXISTING LAW MADE BY PROPOSED BILL

Changes in existing law proposed to be made by the bill are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is underscored):

Section 27 of the Merchant Marine Act of 1920, as amended (46 U.S.C. 883).

Sec. 27. That no merchandise shall be transported by water, or by land and water, on penalty of forfeiture [thereof] *of the merchandise (or the value thereof to be recovered from any consignor, seller, owner, consignee, agent or other person or persons so transporting or causing said merchandise to be transported)* between points in the United States, including Districts, Territories, and possessions thereof embraced within the coastwise law, either directly or via a foreign port, or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the United States and owned by persons who are citizens of the United States, or vessels to which the privilege of engaging in the coastwise trade is extended by section 18 or 22 of this Act: . . .

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By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 1763. A bill to amend the Rail Passenger Service Act of 1970, as amended, to provide financial assistance to the National Railroad Passenger Corporation, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend the Rail Passenger Service Act of 1970, as amended, to provide financial assistance to the National Railroad Passenger Corporation, and for other purposes, and ask unanimous consent that the letter of transmittal and statement of need be printed in the RECORD with the text of the bill.

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

S. 1763

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 305 of the Rail Passenger Service Act of 1970 (45 U.S.C. 545) is amended by adding a new subsection to read as follows:

"(c)(1) When the Corporation cannot acquire by contract, or is unable to agree with the owner of property as to the compensation to be paid for, any right of way, land or other property (except right of way, land or other property of a railroad or property of a State or local government or other public agency) required for the construction of tracks or other facilities necessary to provide intercity rail passenger service, it may acquire the same by the exercise of the right of eminent domain in the District Court of the United States for the district in which the property is located, or in one such court in the event a single property is located in two districts.

"(2) The Corporation shall file with the complaint, or at any time before judgment, a declaration of taking containing or having annexed thereto—

"(A) A statement of the public use for which the property is taken.

"(B) A description of the property taken sufficient for the identification thereof.

"(C) A statement of the estate or interest in the property taken.

"(D) A plan showing the property taken.

"(E) A statement of the amount of money estimated by the Corporation to be just compensation for the property taken.

"(3) Upon the filing of the declaration of taking and of the deposit in the court, to the use of the persons entitled thereto, of the amount of the estimated compensation stated in the declaration, the property shall be deemed to be condemned and taken for the use of the Corporation and title shall vest in the Corporation in fee simple absolute, or in any lesser estate or interest as specified in the declaration, and the right to just compensation for the property shall vest in the persons entitled thereto. Just compensation shall be ascertained and awarded in the proceeding and established by judgment. The judgment shall include, as part of the just compensation awarded, interest from the date of taking to the date of payment at the rate of six per centum per annum on the amount finally awarded as the value of the property on the date of taking. Interest shall not be allowed, however, on the amount deposited in the court.

"(4) Upon the application of the parties in interest, the court may order that the money deposited in the court, or any part thereof, be paid forthwith for or on account of the just compensation to be awarded in the proceeding. If the compensation finally awarded exceeds the amount of the money received by any person entitled to compensation, the court shall enter judgment against the Corporation for the amount of the deficiency.

"(5) Upon the filing of a declaration of taking, the court may fix the time within which, and the terms upon which, the parties in possession are required to surrender possession to the Corporation. The court may make such orders in respect of encumbrances, liens, rents, taxes, assessments, insurance, and other charges, if any, as shall be just and equitable."

SEC. 2. Section 308(b) of the Rail Passenger Service Act of 1970 (45 U.S.C. 548(b)) is amended by striking the date "January 15" and inserting in lieu thereof the date "March 15".

SEC. 3. Section 402 of the Rail Passenger Service Act of 1970 (45 U.S.C. 562) is amended by adding a new subsection (d) to read as follows:

"(d)(1) If the Corporation and a railroad are unable to agree upon terms for the sale to the Corporation of property (including interests in property) owned by the railroad and required for the construction of tracks or other facilities necessary to provide intercity rail passenger service, the Corporation may apply to the Commission for an order establishing the need of the Corporation for the property at issue and requiring the conveyance thereof from the railroad to the Corporation on reasonable terms and conditions, including just compensation. Unless the Commission finds that—

"(A) conveyance of the property to the Corporation would significantly impair the railroad's ability to carry out its obligations as a common carrier, and

"(B) the obligations of the Corporation to provide modern, efficient, and economical rail passenger service can adequately be met by the acquisition of alternative property (including interests in property) being offered for sale to the Corporation by the railroad, or available to the Corporation by the exercise of its authority under section 305(c) of this Act,

the need of the Corporation for the property shall be deemed to be established and the Commission shall order the conveyance of the property to the Corporation on such reasonable terms and conditions as it may prescribe, including just compensation.

"(2) The Commission shall expedite proceedings under this subsection and, in any event, issue its order within 120 days from receipt of the application from the Corporation. If just compensation has not been determined on the date of the order, the order shall require, as part of just compensation, interest at the rate of six per centum per annum from the date prescribed for conveyance until just compensation is paid."

SEC. 4. Section 404(b) of the Rail Passenger Service Act of 1970 (45 U.S.C. 564(b)) is amended by (1) striking paragraph (3) thereof and inserting in lieu thereof the following:

"(3)(A) Subject to the conditions prescribed in subparagraphs (B) and (D) of this paragraph, if at any time after June 30, 1973, the Board of Directors of the Corporation determines that the continuation of a train operated in the basic system on June 30, 1973, will impair the financial ability

of the Corporation adequately to provide other intercity rail passenger service, the Corporation may discontinue the train. In making its determination, the Board shall consider the existing and potential patronage and profitability of the service, and the importance of the service to other intercity rail passenger service being provided by the Corporation.

"(B) If the discontinuance of a train between two points designated by the Secretary in his 'Final Report on the Basic National Rail Passenger System' of January 28, 1971, as points between which intercity passenger trains shall be operated would reduce the frequency of service between the two points below one train per day in each direction (if daily trains were scheduled between the points on June 30, 1973), or below three trains per week (if trains were scheduled only three times per week between the points on June 30, 7973), the discontinuance must be approved by the Secretary.

"(C) In deciding whether to approve the discontinuance of a train under subparagraph (B) of this subsection, the Secretary shall consider the importance of service between the two points to other intercity rail passenger service being provided by the Corporation; the adequacy of other transportation facilities serving the same points; the existing and potential patronage and profitability of the service; the relationship of the public benefits from a continuation of the service to the impairment of the Corporation's ability adequately to provide other intercity rail passenger transportation: and the need for rail passenger service over the route as part of a balanced transportation system. The decision of the Secretary shall not be reviewable in any court.

"(D) At least 45 days prior to the discontinuance of a train under this subsection, the Corporation shall mail to the Governor of each State in which the train in question is operated and post in every station, depot, or other facility serviced thereby notice of the proposed discontinuance. The Corporation may not discontinue the train if, at least 15 days prior to the date specified for discontinuance, a State, regional, or local public agency requests continuation of the service and, within 90 days following the date specified for discontinuance, agrees to reimburse the Corporation for a reasonable portion of any losses associated with the continuation of service beyond the notice period."; and

(2) striking the words "paragraph (3)" in paragraph (4) and inserting in lieu thereof "paragraph (3)(D)".

SEC. 5. Section 601 of the Rail Passenger Service Act of 1970 (45 U.S.C. 601) is amended (1) by striking the words "There is authorized to be appropriated to the Secretary in fiscal year 1971, $40,000,000, and in subsequent fiscal years a total of $225,000,000, these amounts" in subsection (a) and inserting in lieu thereof the words "There are authorized to be appropriated to the Secretary such amounts as necessary,"; and (2) by striking the words "There is authorized to be appropriated to the Secretary $2,000,000 annually," in subsection (b) and inserting in lieu thereof the words "There are authorized to be appropriated to the Secretary such amounts as necessary, to remain available until expended,".

SEC. 6. Section 602 of the Rail Passenger Service Act of 1970 (45 U.S.C. 602) is amended (1) by inserting after the word "prescribe," in subsection (a) the words "with the approval of the Secretary of the Treasury,"; (2) by changing the first sentence of subsection (d) to read as follows: "The aggregate unpaid principal amount of securities, obligations, or loans outstanding at any one time, which are guaranteed by the Secretary under this section, may not exceed $500,000,000."; and (3) by adding a new subsection (g) to read as follows:

"(g) Notwithstanding any other provision of this Act, a guarantee may not be made of any security, obligation, or loan, the income from which is not included in gross income for the purposes of chapter I of the Internal Revenue Code of 1954."

SEC. 7. Section 801 of the Rail Passenger Service Act of 1970 (45 U.S.C. 641) is amended to read as follows:

"SEC. 801. ADEQUACY OF SERVICE.

"(a) The Commission is authorized to prescribe such regulations as it considers necessary to assure that the quality of service and accommodations offered passengers on board trains and at other facilities used in intercity rail passenger service is adequate, taking into account the safety regulations applicable to that service. The Commission may not prescribe regulations applicable to the Corporation that relate to the scheduling or frequency of service, or the number or type of cars in a train, or that otherwise conflict with the service characteristics established by the Secretary for the basic system.

"(b) Any person who violates a regulation issued under this section shall be subject to a civil penalty of not to exceed $500 for each violation. Each day a violation continues shall constitute a separate offense."

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SECRETARY OF TRANSPORTATION,
*Washington, D.C., April 25, 1973.*

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

DEAR MR. PRESIDENT: There is transmitted herewith a proposed bill:

"To amend the Rail Passenger Service Act of 1970, as amended, to provide financial assistance to the National Railroad Passenger Corporation, and for other purposes."

On March 15 I transmitted a "Report to Congress on the Rail Passenger Service Act" as required by section 806 of the Rail Passenger Service Act of 1970 (hereinafter the "Act"). That Report recommended the following legislative changes:

Eliminating review by the Interstate Commerce Commission (the "ICC") of discontinuances of service required by the basic system.

Clarifying the ICC's jurisdiction over the adequacy of Amtrak service to exclude those aspects relating to quantity of service.

Authorizing open-ended appropriation authority and increasing loan guarantee authority to $500 million.

Changing the date of Amtrak's Annual Report to Congress to March 15 to coincide with the reporting date prescribed for the Department and the ICC.

In addition to carrying out the above legislative recommendations, the proposed bill would provide authority by which Amtrak can acquire the property it needs to operate efficiently. It would grant Amtrak the right of eminent domain with respect to private property not owned by a railroad. In the case of property owned by a railroad, it would authorize the ICC to order conveyance to Amtrak, subject to certain determinations.

AUTHORIZATION REQUESTS

Section 5 of the proposed bill would amend section 601 of the Act to provide general appropriation authorizations. The March 15 Report estimated that a Federal grant of $93 million would be required to underwrite Amtrak's losses from operations in FY 1974. As the Report also indicated, however, more than the usual amount of uncertainty exists in estimating Amtrak's financial requirements. The uncertainties include such factors as future contract negotiations and projections of fares, ridership, and costs. In recommending general, rather than specific, appropriation authorizations, the Report noted:

"While there is always some built-in uncertainty in estimating appropriation requirements and, therefore, authorization requirements, the problem is particularly troublesome in the case of Amtrak. Normally, Government activities can be limited to conform to the amount of the appropriation. In the case of Amtrak, however, the Government is funding the difference between revenues and costs, both of which are subject to many contingencies which cannot always be accurately estimated. If an authorization were specified and it proved to be inadequate, it would be necessary not only to obtain a supplemental appropriation but, prior to that, a separate bill to increase the authorization."

Section 6 of the proposed bill would amend section 602(d) of the Act to increase the loan guarantee authority to $500 million from the existing level of $200 million. This is necessary to permit Amtrak to upgrade motive power and passenger cars and to improve facilities and rights-of-way in FY 1974 and succeeding fiscal years.

The bill would also amend section 602(a) to require that loan guarantees be approved by the Secretary of the Treasury, and add a new subsection (g) to section 602 to prohibit the guarantee of tax exempt obligations. These proposed amendments incorporate policies applicable to other Federal loan guarantee programs.

DISCONTINUANCE OF TRAINS

The estimated Federal grant requirement of $93 million for FY 1974 assumes, among other things, that service between Chicago-Florida, N.Y./D.C.-Kansas City, and Richmond-Newport News will be discontinued, and that certain adjustments will be made in the Chicago-Kansas City segment of the Chicago-Houston service. In order to keep within the financial plan for FY 1974, these services must be discontinued expeditiously. Section 404(b)(3) of the Act, however, requires Amtrak to follow the procedures of section 13a of the Interstate Commerce Act to discontinue a train. These procedures have built-in delays which would thwart the timely discontinuance of service. As stated in the Secretary's Report:

"The Section 13a discontinuance procedure was designed to apply to a rail passenger service being provided by a private industry without subsidization by the Federal Government. In that context, determinations by ICC as to public convenience and necessity for the service and as to undue burden on commerce of a continuation of service (the ability of the carrier to internally subsidize) were appropriate. Amtrak, however, is not such a carrier. Its entire operation is reviewed annually by the Executive Branch and the Congress. It has only some long-term prospect of becoming a self-sustaining entity and is heavily subsidized by the Federal Government at the present time. The amount of the Federal subsidy is directly related to the operating losses of Amtrak, and these losses stem from providing uneconomic service. Therefore, the discontinuance procedure should be changed to avoid the necessity to perform an uneconomic service, through an extended period of litigation, at substantial cost to the general taxpayer. At the same time, Amtrak would have greater latitude to be inovative in providing its services."

Accordingly, section 4 of the proposed bill would amend section 404(b)(3) of the Act to permit Amtrak to discontinue trains without an ICC proceeding. It is intended that Amtrak continually examine the performance of each route, and that a complete review of all routes be undertaken at least once a year by the Board of Directors. If the potential and actual performance of a train indicates that the continuation of the service is not warranted in terms of the criteria contained in the amendment to section 404(b)(3)—including the loss per passenger mile—the Board of Directors should initiate action to discontinue the train. Under existing law, Amtrak may discontinue new or experimental service at any time prior to the end of two years of continuous service. The Board would be expected to examine period-

ically the continuation of these trains in accordance with the same criteria.

If, however, the discontinuance of a train constitutes the discontinuance of service between points specified in the basic system, the discontinuance would become effective only with the Secretary's approval. In deciding whether to approve a discontinuance, the Secretary would have to consider the economic, transportation, and public benefit effects of the service. His decision would not be reviewable by the courts.

ADEQUACY OF SERVICE

Section 801 of the Act authorizes the ICC to "prescribe such regulations as it considers necessary to provide safe and adequate service, equipment, and facilities for intercity rail passenger service." This language creates a conflict between the ICC and the Secretary with respect to the regulation of railroad safety, and with respect to the service characteristics of the basic system established by the Secretary in his Report to Congress of January 28, 1971, which prescribed the basic system and its service characteristics.

THE SAFETY ISSUE

In the Federal Railroad Safety Act of 1970, the Secretary's authority to regulate railroad safety was expanded to encompass the regulation of "all areas of railroad safety". Since the Federal Railroad Safety Act was enacted only 14 days prior to the Rail Passenger Service Act, it is not reasonable to assume, in the absence of a clear expression of intent, that the Congress intended that both the Secretary and the ICC were to regulate railroad safety. In construing section 801, we believe that, rather than conferring safety regulatory authority on the ICC, the Congress was establishing a safety limitation on the exercise of the ICC's power to regulate the adequacy of service. Under this interpretation of the section, the ICC in prescribing its own regulations with respect to adequacy of service would be required to take account of safety regulations prescribed by the Secretary. Section 7 of the proposed bill would amend section 801 of the Act to make explicit this interpretation of the ICC's responsibility in the area of railroad safety.

THE SERVICE CHARACTERISTICS ISSUE

In directing the Secretary to establish the basic system for rail passenger service in the United States, Congress directed in section 201 of the Act that the Secretary identify the "basic service characteristics of operations to be provided within the basic system, taking into account schedules, number of trains, connections, through car service, and sleeping, parlor, dining, and lounge facilities." In his Report to Congress of January 28, 1971, the Secretary prescribed certain minimum service characteristics covering all of the facets of service specified in section 201.

In setting these characteristics of service, the Secretary stated that it was his intention "to preserve Corporation discretion". This intention was fully consistent with the Congressional declaration, set forth in section 301, that the Corporation's purpose was "to provide intercity rail passenger service, employing innovative operating and marketing concepts so as to fully develop the potential of modern rail service".

To interpret section 801 in a manner which would make it consistent with sections 201 and 301, one must conclude that the Congress did not intend to confer authority upon the ICC either (1) to prescribe regulations as to the quantity of service to be provided by Amtrak, which could seriously impair the exercise of the management judgment necessary to the achievement of "innovative operating and marketing concepts", or (2) to prescribe regulations which would conflict with the service characteristics of the basic system as established by the Secretary.

Section 7 of the proposed bill would amend section 801 to make this interpretation explicit by (1) restating the ICC's regulatory authority and limiting it to the quality of service and accommodations offered passengers on board trains and at other facilities used in rail passenger service, and (2) excluding from the ICC's jurisdiction the authority to promulgate regulations applicable to the Corporation that relate to the scheduling or frequency of service, or the number or type of cars in a train, or that otherwise conflict with the service characteristics established by the Secretary for the basic system. Thus, the ICC could not require that sleeping cars, lounge cars or food service be provided in conflict with service characteristics prescribed by the Secretary; but the ICC could prescribe standards for heating air conditioning, and other amenities that affect the quality of service offered the passenger in the sleeping car, lounge car, or diner.

FACILITATING THE ACQUISITION OF PROPERTY BY AMTRAK

Amtrak is presently leasing terminal and other facilities from various railroads. These facilities are not always best adapted to Amtrak's needs, nor is the lease always the most economical means by which Amtrak could fulfill its requirements for a facility. Often it would make more economic sense for Amtrak to build a new facility at a different location. Frequently, however, the only suitable alternative property sites are owned by the railroad which is the lessor of the existing facility. Under these circumstances, there is little economic incentive for the railroad to make alternative property sites available to Amtrak. The result is that Amtrak cannot acquire the property it needs at a reasonable price.

In those instances in which Amtrak has attempted to purchase property from owners other than a railroad, it has found its bargaining position impaired because of its relatively inflexible site requirements. For this very reason, railroads have generally been granted the right of eminent domain under State law. Most, if not all, other public utilities are also vested with the power of eminent domain. The rationale for delegating this sovereign power to a privately-owned corporation rests on the public service obligations of the public utility. Granting a utility the right of eminent domain assures that the utility can acquire the property necessary to perform its public service mission at a reasonable price. The judicial review which is exercised through the condemnation proceeding assures that the property being taken is in fact needed for a public purpose and that just compensation is being paid for the property acquired.

There is a precedent for the grant of the right of eminent domain by the Federal Government. For example, it has granted the right to natural gas companies certificated by the Federal Power Commission (15 U.S.C. § 717f(h)).

Section 1 of the proposed bill would amend section 305 of the Act to grant the right of eminent domain to Amtrak; but it would specifically preclude the use of the power to acquire property owned by a railroad or by a State or local government.

Because a railroal is also providing a public transportation service as a common carrier, the Department believes that some mechanism should be established to weigh the requirements of Amtrak against the requirements of the railroad as to the use of a particular site. As a substitute for granting Amtrak power to take a railroad property under eminent domain, section 3 of the bill would add a new subsection (d) to section 402 of the Act prescribing a procedure by which the ICC can assess the public interest aspects of competing claims for the use of the property.

Under this procedure, whenever Amtrak and a railroad are unable to agree upon the terms for the sale of property, Amtrak could apply to the ICC for an order establishing Amtrak's need for the property and requiring its conveyance to Amtrak on reasonable terms and conditions, including just compensation. Unless the ICC found (1) that conveyance of the property would significantly impair the railroad's ability to carry out its common carrier obligations, and (2) that the obligations of Amtrak to provide modern, efficient, and economical rail passenger service could adequately be met by the acquisition of alternative properties, the ICC would be required to order the conveyance of the property to Amtrak upon terms and conditions established by the ICC. To assure expeditious resolution of the controversy and timely implementation of Amtrak's plans, an order would have to be issued within 120 days from the ICC's receipt of the application from Amtrak.

ANNUAL REPORTING DATE

Section 308(b) requires Amtrak to submit an annual report to the President and to the Congress by January 15 of each year. Section 308(c) requires the Secretary and the ICC to transmit their annual reports by March 15 of each year. Amtrak, the ICC, and the Department are required to submit legislative proposals to the Congress in connection with their annual reports. Because the Federal Government is heavily involved in funding the operation and capital improvement of Amtrak, the reports should be prepared during the same period of time. The Federal budget and legislative cycle argues for the March 15 date. A common reporting date also permits the Congress to have before it three contemporaneous reports at the time it is considering legislative action. Section 2 of the proposed bill would amend section 308 to establish a reporting date of March 15 for Amtrak.

The Office of Management and Budget advises that this proposed legislation is consistent with the Administration's objectives.

Sincerely,

CLAUDE S. BRINEGAR.

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## By Mr. JAVITS:

S. 1764. A bill to amend section 46 of the Internal Revenue Code of 1954 to provide for greater flexibility in fixing the investment tax credit rate. Referred to the Committee on Finance.

VARIABLE INVESTMENT TAX CREDIT

Mr. JAVITS. Mr. President, I introduce a bill to establish a variable investment tax credit, to replace the fixed, 7 percent investment tax credit available to business at the present time. The bill is intended to give us greater flexibility in administering fiscal policy, and to encourage a higher level of capital formation. It gives the President authority to reduce the investment tax credit—one of the principal stimuli to business fixed investment—to as low as 1 percent or raise it as high as 15 percent. But, there is written into the bill a provision similar to the provision for respecting Presidential reorganization plans, so that no such change in the investment tax credit could be made if either House of Congress disapproves of the action within 60 days.

Mr. President, we face a very crucial time for our economic policy, a time which will once again test the President to the same degree as did the events leading up to phase I of the wage and price control program. I refer, of course, to the fact that the economy is nearing the limit of its potential; unless the proper steps are taken, we can find the economy careening out of control into a demand-pull spiral which will make previous pe-

riods of inflation pale by comparison. Even if the proper steps are taken, we face a difficult transition period as we attempt to resolve the competing goals of economic growth, high employment, and price stability.

My bill is intended to help the President and the country through this and future transition periods. What this bill says to the businessman, in effect, is that his new plant or his more efficient machine could vary as much as 14 percent in price, according to the needs of the economy for stimulating, or dampening, business investment. What it says to the American public is that we could have a better handle on this major source of economic growth in order to control more effectively the vagaries of the business cycle. By adding to our arsenal of economic policy weapons, and by being able to pinpoint the effects of policy changes, we could also avoid some of the unpleasant side effects of monetary and fiscal policy, such as excessively high interest rates, severe disintermediation from certain financial institutions, and crippling cutbacks in Federal spending.

I believe this bill can be administered with little, if any, impediment to business planning. Sensible businessmen already take the characteristics of the business cycle into account when making investment plans. They know, for example, that market conditions, interest rates, the availability of labor, price trends and the overall productivity of plant are affected by upswings and downswings in economic activity. Many, if not all, of these phenomena can now be closely predicted. A variable investment tax credit would likewise follow a logical cycle of either stimulating, or being neutral with regard to, capital investment. Since changes in the credit might have to come at times when congressional approval could not be immediately forthcoming, the direct procedure which is set forth in the bill imparts a greater degree of certainty to the investment tax credit than even under present law.

Finally, there are important international factors in this bill. Adoption of a variable investment tax credit, with an upper limit as high as 15 percent, will undoubtedly provide a powerful stimulus to plant modernization whenever the state of the economy permits. And this bears a direct relation to our international competitiveness; a nation depends upon a high rate of capital formation to remain competitive in international trade. The U.S. suffers one of the lowest rates of capital formation in the entire 20 nations of the OECD, a fact which cannot help but contribute to the poor showing in our trade account.

Mr. President, it is a politically advantageous thing to blame the administration whenever business slowdowns throw people out of work, or when an overheated economy drives prices up. And yet the business cycle is a fact of life.

The job of economic policy is to make the troughs of the cycle as mild and short as possible. My bill would give the President—under congressional control—an additional, efficient, and sophisticated tool to do the job. By providing at times for an investment tax credit as high as 15 percent, it would also raise the overall level of capital formation whenever this could be done without throwing the economy off the track. I urge my colleagues to give it favorable consideration.

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

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

S. 1764

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 46 of the Internal Revenue Code of 1954 (relating to tax credit for investment in depreciable property) is amended by—

(1) striking out "seven percent" in subsection (a) (1) and inserting "a percentage (determined under subsection (f))", and

(2) inserting at the end thereof the following new subsection:

"(f) DETERMINATION OF PERCENTAGE.—

"(1) IN GENERAL.—The percentage referred to in paragraph (1) of subsection (a) shall be seven percent, except that the percentage may be reduced to not less than one percent or increased to not more than fifteen percent by the President, subject to disapproval by either House of Congress, in accordance with the provisions of this subsection.

"(2) CHANGE IN PERCENTAGE BY PRESIDENT SUBJECT TO DISAPPROVAL BY THE CONGRESS.—In order to change the percentage rate under this section, the President, upon the recommendation of the Council of Economic Advisers, may transmit to the Congress a proposed new rate within the limits fixed by paragraph (1), the message to be delivered to both Houses of the Congress on the same day and to each House while it is in session. The message shall specify the proposed new rate, the proposed effective date, and the reasons for the change. The change in rate shall take effect at the time specified by the President (whether before or after the date on which the message is submitted to the Congress), but the change shall be terminated as of its effective date if, between the date of delivery of the message proposing the change and the end of the first period of sixty calendar days of continuous session of the Congress after such date, either House passes a resolution stating in substance that such House does not favor the proposed new rate. For purposes of this paragraph, continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day period.

"(3) Exercise of rulemaking power of the Senate and the House of Representatives.—The succeeding paragraphs of this subsection are enacted by Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described in paragraph (4); and they shall supersede other rules only to the extent that they are inconsistent therewith. They are enacted with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(4) Resolution.—For the purpose of the succeeding paragraph of this subsection, 'resolution' means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: 'That the ——— does not favor the proposed investment tax credit rate transmitted to Congress by the President on ———.', the first blank space therein being filled with the name of the resolving House and the second blank space with the date on which the President's message proposing the rate was delivered.

"(5) Referral of resolution.—A resolution shall be referred to the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate (except that it may not be made after the committee has reported a resolution with respect to the same proposed rate), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same proposed rate.

"(6) Consideration of resolution.—When the committee has reported, or has been discharged from further consideration of, a resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(7) Debatability of motions.—Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution and motions to proceed to the consideration of other business shall be decided without debate. Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate."

(b) The amendment made by subsection (a) shall apply with respect to taxable years ending after the date of enactment of this Act.

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By Mr. BAYH:

S. 1765. A bill to establish an independent Board of Parole, to provide for fair and equitable Federal parole procedures, to study the parole procedures provided for released prisoners, and for other purposes. Referred to the Committee on the Judiciary.

PAROLE REORGANIZATION AND REFORM ACT OF 1973

Mr. BAYH. Mr. President, today I am introducing the Parole Reorganization and Reform Act of 1973, which is designed to restructure and reform the U.S. Board of Parole. While this bill will directly affect only those offenders who are incarcerated in the Federal prison system, it should serve as a useful model to the States in their efforts to improve parole procedure. The Federal prison system has traditionally been viewed as a leader in prison reform, and I hope that this bill will place the U.S. Board of Parole in a similar position of leadership.

Since its inception 95 years ago in New York, parole has become an integral part of correctional and rehabilitative

efforts. As currently constituted, there are three principal elements in the parole process: First, the courts and the prison system which supply information about individual offenders; second, the Parole Board which uses that information to decide who should be released, under what conditions of parole, and when to revoke parole; and third, the probation officers who supervise parolees as well as probationers. The legislation which I am introducing today touches all parts of the process but deals chiefly with the Parole Board because it has primary responsibility.

During fiscal 1972, the Board held 12,677 hearings and made an additional 4,556 determinations based upon written progress reports. This tremendous volume of decisions was accomplished by eight Board members and eight hearing examiners on a budget of $994,360. Such an enormous number of decisions reached with such minimal resources has tended to result in methods of action which often appear arbitrary or casual. The Board has not established detailed rules or standards to guide its decisionmaking process; neither does it follow the philosophy of stare decisis, developing general standards on a case-by-case basis. The most specific decisional standard is the statutory provision that the Board "may in its discretion" release a prisoner on parole if it finds "a reasonable probability that such prisoner will live and remain at liberty without violating the laws" and that "such release is not incompatible with the welfare of society." The Board has never publicly stated any substantive principles that guide it in making this determination, nor has it publicly listed the criteria which it considers.

The Parole Board does not make decisions as a group. Instead, each case is decided by an individual member, who does not consult with his colleagues. Memoranda relating to the factors considered in releasing eligible prisoners are not prepared. The Board does not articulate the reasons for any particular determination, nor does it inform prisoners why parole was denied.

It is hard to believe that any administrative agency would make decisions in such a haphazard fashion, yet the Parole Board openly admits to these practices. In a pamphlet published by the Board entitled "Functions of the United States Board of Parole," the decisionmaking process is described as follows:

> Voting is done on an individual basis by each member and the Board does not sit as a group for this purpose. Each member studies the prisoner's file and places his name on the official order form to signify whether he wishes to grant or deny parole. The reasoning and thought which led to his vote are not made a part of the order, and it is therefore impossible to state precisely why a particular prisoner was or was not granted parole.

The hearing process is as casual as the decisionmaking process. According to testimony before a House judiciary subcommittee, parole hearings are usually conducted in the Federal institution by a hearing examiner, and only occasionally by a Board member. Hearings typically last from 10 to 15 minutes, although some testimony indicated that hearings are more likely to last between 2 and 5 minutes. Present at the hearing along with the Parole Board official are the prisoner, the prison counselor, and a stenographer. The prisoner is never represented by counsel. After the hearing, when the prisoner has left the room, the examiner dictates his recommendation to the stenographer.

Because no transcript is prepared, this recommendation serves as the only record of the parole hearing.

Because hearings are so short, heavy reliance must be placed upon the prisoner's file. Yet one witness at the House hearings testified that he was advised by an examiner that each man's record could be adequately appraised in 5 minutes. Furthermore, although the contents of the file are crucial, the prisoner is not allowed to review the file to insure its accuracy. The same witness testified that—

> This is in itself disturbing, because prison files are not consistent or accurate records. I have seen black men listed as white and Harvard graduates listed with borderline IQ's.

While there is serious dispute over the extent of access a prisoner should have to his own file, the Administrative Conference of the United States has supported relatively broad disclosure. In testimony before the House subcommittee, the Conference recommended that:

> The prison counselor should disclose the file to the prisoner or his representative in advance of the parole hearing, except for any information as to which disclosure is clearly unwarranted or which has been determined by the sentencing judge to be improper. The prisoner should be given an oral summary or indication of any relevant adverse information which is not directly disclosed to him.

While many of the Board's practices are open to serious criticism, the courts have generally refused to intervene in the parole decisionmaking process. In certain areas related to the procedure for revoking parole and conditions of parole as imposed by the Board, courts have felt more free to attempt reform. However, even in these peripheral areas of the parole process, the Board has resisted judicial intervention.

The Board maintained until 2 years ago that it has exclusive jurisdiction in the area of parole. In *Sobell* v. *Reed*, 327 F. Supp. 1294 (S.D.N.Y. 1971), a review of one of the Board's decisions, the Chairman of the Parole Board refused to appear in court to testify, arguing that the court had no power in the parole area. The court flatly rejected that claim and rebuked the Board in language which clearly points to the need for thorough reform in this area:

> But it is urged that the Board's action is outside the court's power of review. It would be surprising, and gravely questionable, if Congress has meant to confer such final authority upon any administrative agency, particularly one that makes no pretense to learning in constitutional law. It would be bizarre to hold, as the Government's position ultimately entails, that assertions of constitutional rights like those made here may be overridden without ever being faced and decided by any tribunal of any kind. But there is no occasion to become upset over such implications. The Government's position is not soundly based.

In Sobel against Reed, the issue was the infringement of the plantiff's first amendment right to freedom of speech by overly restrictive conditions of parole. In an earlier case, *Reed* v. *Butterworth*, 297 F. 2d 776 (D.C. Cir. 1961), the court threw out a Board decision because it refused to follow the parole revocation procedures which Congress envisioned when it enacted the parole statute. The court further indicated that the Board's refusal to follow these procedures was a matter of long standing, and its warning was clear:

> The Parole Board apparently still has the notion, which we criticized in *Fleming* v. *Tate* [156 F. 2d 848 (D.C. Cir. 1946)], that revocation hearings are mere formalities, and the result a foregone conclusion. As long as the Board evidences this philosophy by denying fundamental procedural safeguards, we will be compelled to order new hearings, and, in cases of grievous injustice, to order such further relief as the circumstances may warrant.

Mr. President, while individual court cases have brought relief to a few plaintiffs and reform to isolated areas of board practice, they have not established a full range of constitutional rights and statutory guarantees. The criticisms made by the courts are still valid. The legislation which I am introducing today clarifies the rights of prisoners and parolees. It specifies in detail the scope of the Parole Board's discretion and the responsibilities of courts for judicial review. Let me discuss a few of the major reforms proposed in this legislation.

RESTRUCTURED, INDEPENDENT PAROLE BOARD

Since the effectiveness of any reform depends upon the organization mandated with implementing that reform, restructuring of the Parole Board itself is the first priority. My bill establishes a national board which will perform the appeals and policymaking functions of the Board of Parole. In turn, the national board sets up four regional boards which will conduct parole determination and parole revocation hearings. This decentralization of the decisionmaking process will alleviate the oppressive caseload currently borne by each member of the Board of Parole.

Additionally, the Board is taken out of the Department of Justice and established as an independent agency within the executive branch. I feel that the Board should be able to exercise its discretion free from the influence of the prosecutor and the prison administrator. Because it is essential that the Board be composed of highly qualified personnel, the bill also provides that Board appointees represent different areas of expertise in the criminal justice field.

ELIGIBILITY FOR PAROLE

The bill retains the present practice which leaves the date of eligibility for parole substantially in the hands of the sentencing authority. In general, a prisoner may be considered for parole only after serving one-third of his maximum term. However, unlike the present practice, the bill creates a presumption of parole. The Parole Board must grant parole to eligible prisoners unless there is substantial reason to believe that a prisoner will engage in further criminal conduct or will not conform to condi-

tions of parole. This is intended to circumscribe the wide discretion presently exercised by the Board. A similar presumption of parole was recommended by the National Commission on Reform of the Federal Criminal Laws. Another new judge or sentencing jury to specify that persons convicted of murder accompanied by certain aggravating circumstances be sentenced to prison with no possibility of parole.

HEARING PROCEDURE AND FREQUENCY

The proposed legislation specifies the frequency of parole hearings and other reconsiderations of the prisoner's status. An effort was made to balance the right of the prisoner to have his progress frequently judged against the administrative realities of implementing such a right. Therefore, my bill provides that each prisoner must be given a hearing at least every 2 years after an initial parole rejection. Additionally, I have accepted the recommendations of the association of the bar of the city of New York, which include a right to counsel at all parole hearings, a written transcript of all hearings, and the publication of criteria for granting, denying, and revoking parole. While some experts do not recommend formalized hearing procedures and written, reasoned decisions, I believe that the parole process has suffered over the years from too little formal structure. I accept the judgment of the bar of the city of New York that the key problem with the parole process is the Board's overly broad discretionary power:

> The present rules are extremely scanty, with the result that the Parole Board possesses today almost unbridled, and unreviewable powers. The problem, as we noted before, is even greater than in the area of probation, where the power over prisoners is exercised within the judicial structure. There is no such control over the Parole Board, whose members are not necessarily lawyers, and whose procedures are loose, to say the least. (A.B.C.N.Y. Report on the Title 18 revision recommended by the National Commission on Reform of the Federal Criminal Laws.)

SUPERVISION WHILE ON PAROLE

Three separate issues are raised when a prisoner is placed on parole: The conditions of parole, the procedure for revoking parole, and the amount of time a parolee should serve when he is returned to prison after a parole revocation. The freedom of the Parole Board to establish conditions of parole presents extremely difficult problems. On the one hand, the Board must retain sufficient flexibility to meet the individual needs of the parolee. On the other hand, the parolee must be protected from unrealistic or abusive conditions of parole. While the proposed legislation allows the Board substantial freedom in this area, it does specify some general guidelines for the Board's consideration. In addition, it requires the Board to supply the parolee with a written list of conditions at the moment of release. Since the courts have already expressed an interest in this area, the bill relies on judicial review to correct any abuses.

Parole revocation proceedings have received considerable attention in the courts. As recently as June 29, 1972, the U.S. Supreme Court in *Morrissey* v. *Brewer* (40 LW 5016), reviewed in detail the rights constitutionally required at such hearings. The Court declared that in parole revocation hearings, minimum standards of due process include: Written notice of the claimed violations of parole; disclosure to the parolee of the evidence against him; the opportunity to be heard in person and to present witnesses and documentary evidence; the right to confront and cross-examine witnesses; a "neutral and detached" hearing officer; and a written statement by the fact-finders as to the evidence relied upon and reasons for revoking parole. This legislation incorporates these due process requirements.

In addition, it prohibits arbitrary and unreasonably long imprisonment prior to hearing. My bill also requires that counsel be appointed if the parolee is indigent.

Under current law, a parole violator who is returned to prison is given no credit for the time he has spent "on the street" successfully fulfilling his parole conditions. The prisoner's paroled status may continue during good behavior until his maximum sentence expires. However, if he is returned to prison, his maximum sentence is not reduced by the time he spent on parole. This is extremely unfair, and ironically places a greater burden on the model prisoner who is released early in his sentence than on other prisoners who are considered worse risks and consequently are released at a later point in their sentence. To rectify this injustice, I have accepted the recommendation of the National Commission on Reform of the Federal Criminal Laws that a portion of a parolee's time on the street, prior to parole violation, should be subtracted from his maximum sentence. As a result, the consequences of parole violation would be no more serious for the model prisoner than for the prisoner released later in his term.

APPEAL

The proposed legislation provides a formal, internal process of review. Prisoners or parolees who are dissatisfied with Regional Board determinations may appeal to the National Board. Considerations of administrative efficiency weighed heavily in reaching the conclusion that a written appeal would be adequate. Finally, the bill requires that the Parole Board initiate a study of parole services and report to Congress annually with recommendations for reform.

Mr. President, last year the Parole Board made 17,233 determinations. 6,174 individuals were granted parole, 1,418 warrants were issued against parole violators, and 12,076 people remained under the Board's supervision. Fair and equitable procedures must be instituted to protect the rights of these individuals. As the U.S. Court of Appeals for the District of Columbia said over 25 years ago in *Fleming* v. *Tate*, 156 F. 2d 848 (D. C. Cir. 1946):

> The parole system is an enlightened effort on the part of society to rehabilitate convicted criminals. Certainly no circumstance could further that purpose to a greater extent than a firm belief on the part of such offenders in the impartial, unhurried, objective, and thorough processes of the machinery of the law. And hardly any circumstance could with greater effect impede progress toward the desired end than a belief on their part that the machinery of the law is arbitrary, technical, too busy, or impervious to facts.

The legislation which I am introducing today is designed to achieve the kind of parole system that was recommended so many years ago. My bill also reflects many of the reforms suggested by Congressmen KASTENMEIER and RAILSBACK, and the numerous witnesses who appeared before House Judiciary Subcommittee No. 3 to discuss the problems of parole during the last session of Congress. I urge my colleagues to give prompt and favorable consideration to adopting these long overdue reforms of our parole system.

I ask unanimous consent that the bill and a summary be printed in the RECORD at the conclusion of my remarks.

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

S. 1765

*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 "Parole Reorganization and Reform Act of 1973."

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BOARD OF PAROLE; PAROLE PROCEDURES, CONDITIONS, ETC.

SEC. 101. Chapter 311 of title 18 of the United States Code (relating to parole) is amended to read as follows:

"*Chapter 311.*—PAROLE

"Sec.
"4201. Board of Parole; members; terms of office; etc.
"4202. Authority of the Board of Parole.
"4203. Administrative powers of the Board of Parole.
"4204. Time of eligibility for release on parole.
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"4222. Warrants to retake Canal Zone violators.
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"§ 4201. Board of Parole; members; terms of office; etc.

"(a) There is hereby established, as an independent establishment in the executive branch, a Board of Parole to consist of a National Board and four Regional Boards.

"(b) The National Board shall be composed of nine members appointed by the President by and with the advice and consent of the Senate. Each of the Regional Boards shall be composed of three members

appointed by the President by and with the advice and consent of the Senate. A vacancy in either Board shall be filled in the manner in which the original appointment was made.

"(c) Not more than five members of the National Board and not more than two members of each Regional Board shall be of the same political party (as determined by the last voting registration within the four years immediately prior to appointment). There shall be at least one member of the National Board appointed from each of the following categories, and each of the Regional Boards shall consist of members appointed from any three of these categories:

"(1) individuals who have been imprisoned in a Federal or State prison, released on parole, and discharged from such parole;

"(2) attorneys having experience in the field of criminal justice;

"(3) social or behavioral scientists expert in the field of criminal studies;

"(4) individuals experienced in the education or training of handicapped or disadvantaged persons;

"(5) individuals having supervisory experience in law enforcement, as defined in section 3781(a) of title 42, United States Code; and

"(6) individuals having experience as guards or correctional officers in a correctional institution or facility, as defined in section 3781(1) of title 42.

"(d)(1) Except as provided in paragraphs (2), (3), and (4), the members of both the National Board and the Regional Boards shall be appointed for terms of six years.

"(2) Of the members of the National Board first appointed under this section—

"(A) three shall be appointed for terms of two years,

"(B) two shall be appointed for terms of three years,

"(C) two shall be appointed for terms of four years, and

"(D) two shall be appointed for terms of five years from the effective date of this title.

"(3) Of the members of each of the Regional Boards first appointed under this section—

"(A) one shall be appointed for a term of one year,

"(B) one shall be appointed for a term of three years, and

"(C) one shall be appointed for a term of five years, from the effective date of this title.

"(4) Any member of the Board of Parole who is appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

"(5) The President shall from time to time designate one of the members of the National Board to serve as Chairman of the Board of Parole and shall delegate to him the necessary administrative duties and responsibilities. The Chairman of the Board of Parole shall designate one of the members of each Regional Board to serve as Chairman of such Regional Board. The Chairman of each Regional Board shall have such administrative duties and responsibilities with respect to the Regional Board as may be necessary to carry out the purposes of this chapter. The term of office of the Chairman of the Board of Parole and of the Chairman of each Regional Board shall be not less than three years, but not more than six years, as specified at the time of designation as Chairman.

"(6) Each Regional Board shall have such geographical jurisdiction as the National Board may provide in order to assure efficient administration.

"(7) The respective rates of pay for members of the Board of Parole (other than the Chairman of the Board of Parole) shall be equal to the maximum rate, as in effect from time to time, for GS–17 of the General Schedule of section 5332 of title 5. The rate of pay of the Chairman of the Board of Parole shall be at the rate prescribed for level III of the Executive Schedule.

"§ 4202. Authority of the Board of Parole

"(a) The National Board shall have such powers and shall perform such functions and duties as may be provided for the Board of Parole or the National Board under this chapter or under any other provision of law.

"(b) Except as otherwise specifically provided by law, when so authorized by the National Board, any member or agent of the Board of Parole may take any action which the National Board is authorized to take.

"(c) The Regional Boards shall conduct parole determination hearings (in accordance with section 4209) and parole revocation and parole modification hearings (in accordance with section 4218) and perform such other functions and duties as may be provided under this chapter.

"§ 4203. Administrative powers of the Board of Parole

"(a) The National Board shall have the power to—

"(1) appoint and fix the compensation of personnel of the Board of Parole;

"(2) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5;

"(3) prescribe such administrative rules and regulations as may be necessary for the operation of the Board of Parole;

"(4) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

"(5) without regard to section 529 of title 31, United States Code, enter into and perform such contracts, leases, cooperatives agreements, or other transactions as may be necessary in the conduct of its functions, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

"(6) accept voluntary and uncompensated services, notwithstanding the provisions of section 665(b) of title 31;

"(7) request such information, data, and reports from any Federal agency as the Board of Parole may from time to time require and as may be produced consistent with other law;

"(8) arrange with the heads of any other Federal agency for the performance by such agency of any function of the Board of Parole, with or without reimbursement; and

"(9) request probation officers and other individuals, organizations, and public or private agencies to perform such duties with respect to any person released on parole as the National Board deems necessary for maintaining proper supervision of, and assistance to, such persons: *Provided*, That in no case shall a probation officer or other individual caseworker maintain an average daily caseload in excess of fifty individuals.

"(b)(1) The Board of Parole shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter with respect to which the National Board or any Regional Board is empowered to make a determination under this chapter. Such attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

"(2) If a person issued a subpena under paragraph (1) of this subsection refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted, or within the judicial district within which such person is found or resides or transacts business, may (upon application by the Board of Parole) order such person to appear before the National Board or any Regional Board to produce evidence or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(3) The subpena of the Board of Parole shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

"(4) All process of any court to which application may be made under this section may be served in the judicial district wherein the person required to be served resides or may be found.

"(c) Upon the request of the Chairman of the Board of Parole, each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information available to the greatest practicable extent to the Board in the performing of its functions.

"(d) The National Board may delegate to the Regional Boards such powers as may be appropriate other than—

"(1) the power to establish general policies for the Board of Parole, and

"(2) the power to prescribe administrative rules and regulations.

"(e) Except as otherwise provided by law, any action taken by the National Board or any Regional Board shall be taken by a majority vote of all individuals currently holding office as a member of the National Board or the Regional Board taking the action.

"§ 4204. Time of eligibility for release on parole

"(a) Whenever confined and serving a definite term of over one hundred and eighty days, a prisoner shall be eligible for release on parole after serving one-third of such term or after serving fifteen years of a life sentence or of a sentence of over forty-five years unless the crime was murder and the following aggravating circumstances occurred:

"(1) the prisoner was previously convicted of another murder;

"(2) at the time the murder was committed, the prisoner also committed another murder;

"(3) the murder was especially heinous, atrocious, cruel, or manifested exceptional depravity by ordinary standards of morality and intelligence; or

"(4) the victim was the President of the United States or other high public servant.

Unless the sentencing judge or sentencing jury specify otherwise, a prisoner who was convicted of a murder that was accompanied by one or more of the above aggravating circumstances shall not be eligible for parole release. As used in this paragraph, "term" shall mean, in the case of consecutive sentences, the sum of the sentences, and in the case of concurrent sentences, the term of the longest sentence.

"(b)(1) Any prisoner whose eligibility for release on parole is fixed under section 4220(a)(1) at the time of sentencing shall be eligible for release on parole as provided in that provision.

"(2) Any prisoner whose eligibility for release on parole is specified under section 4220(a)(2) at the time of sentencing to be at such time as the Regional Board may determine shall be eligible for release on parole no less than ninety days after the date of his imprisonment or on such other date prior thereto as the Regional Board may determine.

"(c) Any prisoner not referred to in subsection (a) or (b) (including a prisoner released on parole and subsequently reimprisoned) shall be eligible for release on parole ninety days after the date of his imprisonment or on such other date prior thereto as the Regional Board may determine.

"§ 4205. Release on parole

"The Regional Board shall release a prisoner on parole upon the date of his eligibility for parole (as prescribed by section 4204) unless the Regional Board determines that he

should not be released on such date, or that he should be released on a later date, for one or both of the following reasons:

"(1) there is substantial reason to believe that the prisoner will engage in further criminal conduct; or

"(2) there is substantial reason to believe that the prisoner will not conform to such conditions of parole as may be established under section 4212.

"§ 4206. Certain prisoners not eligible for parole

"Nothing in this chapter shall be construed to provide that any prisoner shall be eligible for release on parole if such prisoner is ineligible for such release under any provision of law.

"§ 4207. Factors taken into account in parole determination

"In making a determination under section 4205, the Regional Board may take into account any of the following factors:

"(1) the prisoner's ability and readiness to assume obligations and undertake responsibilities;

"(2) the prisoner's family status, including whether his relatives display an interest in him or whether he has other close and constructive associations in the community;

"(3) the prisoner's employment history and his occupational skills;

"(4) the prisoner's vocational, educational, and other training;

"(5) the adequacy of the prisoner's plans or prospects upon release;

"(6) any recommendations made by the sentencing court;

"(7) the prisoner's conduct during his term of imprisonment;

"(8) the prisoner's behavior and attitude during any previous experience of probation or parole, and the recency of such experience;

"(9) the availability of community resources to assist the prisoner; and

"(10) any other factor which the Regional Board determines to be relevant if, prior to the parole determination hearing held under section 4209, the Regional Board has provided the prisoner with adequate and timely written notice of such factor.

"§ 4208. Information considered by the Regional Board

"In taking into account the factors specified in section 4207 the Regional Board shall consider the following information:

"(1) any reports prepared by any institutional caseworker relating to the prisoner's personality, social history, and adjustment to authority;

"(2) any recommendations which the staff of the facility may make;

"(3) any official report of the prisoner's prior criminal record, including a report or record of earlier probation and parole experiences;

"(4) any presentence investigation report;

"(5) any recommendation regarding the prisoner's parole made at the time of sentencing by the sentencing judge or thereafter;

"(6) any reports of physical, mental, or psychiatric examination of the offender; and

"(7) such other relevant information concerning the prisoner as may be reasonably available.

"§ 4209. Parole determination hearing; time

"(a) In making a determination relating to release on parole under section 4205, the Regional Board shall hold a hearing (referred to in this chapter as a 'parole determination hearing') at which a member of the Regional Board shall preside.

"(b) In the case of any prisoner eligible for parole on a date provided by section 4204, an initial parole determination hearing shall be held at a time prescribed by the Regional Board. Whenever feasible, such time shall be not later than sixty days before such date of eligibility as provided by section 4204, and in the case of a prisoner referred to in section 4204(b)(2) the time of such hearing shall be not later than thirty days following such prisoner's imprisonment.

"(c) In any case in which release on parole is denied at any parole determination hearing a further parole determination hearing shall be held not later than two years following the denial.

"§ 4210. Setting release date

"In no case shall the Regional Board set any date for the release of a prisoner on parole which is more than one year following the date of the parole determination hearing at which such release date is set.

"§ 4211. Procedure of parole determination hearing

"(a) Within a reasonable time prior to any prisoner's parole determination hearing, the Regional Board shall (1) provide the prisoner with written notice of the time and place of the hearing and (2) make available to the prisoner any file or report or other document to be used by the Regional Board in making its determination.

"(b) Clause (2) of subsection (a) of this section shall not apply to any file, report, or other document, or any portion thereof which—

"(1) is a diagnostic opinion which might seriously disrupt a program of rehabilitation; or

"(2) contains sources of information which may have been obtained on a promise of confidentiality.

Whenever the Regional Board finds that this subsection applies to any file, report, or other document, or any portion thereof, to be used by the Regional Board in making its determination, the Regional Board shall state such finding (including the reasons therefor) on the record and shall provide the prisoner (or any representative of the prisoner referred to in subsection (c)(2) of this section) with written notice of such finding (including the reasons therefor). Whenever feasible, the Regional Board shall make available to the prisoner the substance of any information contained in any file, report, or other document, or any portion thereof, to which this subsection applies, except that specific names may be withheld in the case referred to in paragraph (3).

"(c)(1) At any time prior to the parole determination hearing and after having received written notice of such hearing, a prisoner may consult with his attorney, and by mail (or otherwise as provided by the Regional Board) with any person concerning such hearing.

"(2) The prisoner shall, if he chooses, be represented by an attorney or by an employee of the Federal Bureau of Prisons or by any other qualified person, unless he intelligently waives such representation. Such attorney may be retained by the prisoner or appointed pursuant to section 3006A of title 18, United States Code.

"(d) The prisoner shall be allowed to appear and testify on his own behalf at the parole determination hearing.

"(e) A full and complete record of the parole determination hearing shall be kept, and not later than thirty days after the date of the hearing the Regional Board shall (1) notify the prisoner in writing of its determination and (2)—

"(A) furnish the prisoner with a formal notice stating with particularity the grounds on which such determination was based, indicating which of the factors specified in section 4207 were taken into account, and indicating the conclusion of the Regional Board with respect to such factors taken into account, and

"(B) In the case of a denial, furnish the prisoner with a formal notice of the date prior to which he shall be entitled under section 4209(c) to another parole determination hearing. Where that date is more than one year from the present date, the Regional Board must state which factors in section 4207 motivated the Regional Board's determination.

"§ 4212. Conditions of parole

"(a) The Regional Board shall impose such conditions of parole as it deems reasonably necessary to insure that the parolee will lead a law-abiding life or to assist him in doing so. In every case the Regional Board shall impose as a condition of parole that the parolee not commit any criminal offense during his parole. The Regional Board may require as a condition of parole that the parolee reside in or participate in the program of a community service center, or similar facility, for all or part of the period of parole if the Attorney General, or director in the case of such similar facility, certifies that adequate treatment facilities, personnel, and programs are available. If the Attorney General, or director in the case of such similar facility, determines that the parolee's residence in the center, or participation in its program, should be terminated, because his residence or participation adversely affects the rehabilitation of other residents or participants, he shall so notify the Regional Board, which shall thereupon make such other provision with respect to the parolee as it deems appropriate. A parolee residing in a community service center may be required to pay such costs incident to residence as the Regional Board deems appropriate.

"(b) In imposing conditions of parole, the Regional Board shall consider the following:

"(1) there should be a reasonable relationship between the condition imposed and the prisoner's previous conduct and present situation;

"(2) the conditions should provide for the minimum deprivation of liberty and freedom of association; and

"(3) the conditions should be sufficiently specific to serve as a guide to supervision and conduct.

"(c) Upon release on parole, a prisoner shall be given a certificate setting forth the conditions of his parole.

"§ 4213. Period of parole

"(a) In the case of any parolee released on parole, the period of time to be served on parole shall end upon the expiration of the maximum term for which he was sentenced, reduced by the amount of parole good time allowed as a reduction under section 4214, except that in the case of any prisoner deemed as if released on parole under section 4164 (relating to mandatory release), the period of time to be served on parole shall be the period provided by section 4164, reduced by the amount of parole good time allowed as a reduction under section 4214. The parole of any parolee may, at the discretion of the sentencing authority, run concurrently with any period of imprisonment, parole, or probation under any other Federal, State, or local sentence. In the case of any parolee who has intentionally refused or failed to respond to any request, order, or warrant of the Board of Parole during any time, and for any reason which the Regional Board determines to be invalid, the period of time to be served on parole may be extended for such period as the parolee so refused or failed to respond.

"(b) The parole of any prisoner sentenced before June 29, 1932, shall be for the remainder of the term specified in his sentence, less good time allowances provided by section 4161 through 4165 of this title.

"§ 4214. Parole good time

"(a) Except as provided in subsection (b), the Board of Parole shall allow each parolee whose record of conduct shows that he has faithfully observed all the conditions of his parole a reduction from his parole, computed as follows:

"(1) five days for each month of parole, if the period (determined as of the date of release on parole) is more than six months but not more than one year;

"(2) six days for each month of parole, if such period of parole is more than one year but less than three years;

"(3) seven days for each month of parole, if such period of parole is more than three years but less than five years;

"(4) eight days for each month of parole, if such period of parole is more than five years but less than ten years;

"(5) ten days for each month, if such period of parole is ten years or more.

"(b) Reduction from parole for good conduct may be forfeited or withheld by the Board of Parole only if the Regional Board finds a violation of the conditions of parole pursuant to a hearing as provided in section 4218.

"(c) Any reduction forfeited or withheld under the preceding subsection may be restored by the Regional Board at any time.

"§ 4215. Discharge from parole

"(a) The Board of Parole may terminate the parole of any parolee or may release him from any condition of parole imposed under section 4212 at any time after the expiration of one year of parole, if warranted by the conduct of the parolee and the ends of justice.

"(b) Upon the expiration of the period of time to be served on parole, as provided by section 4213, the Board of Parole shall terminate the parole of any parolee.

"(c) Upon the termination of the parole of any parolee, the Board of Parole shall issue a certificate of termination to such parolee and to such other agencies as the Board of Parole may determine.

"§ 4216. Aliens

"When an alien prisoner subject to deportation becomes eligible for parole, the Board of Parole may authorize his release on condition that he be deported and remain outside the United States. Such prisoner, when his parole becomes effective, shall be delivered to the duly authorized immigration official for deportation.

"§ 4217. Time for revocation of parole; period of reimprisonment; retaking parolee

"(a) The Regional Board may revoke the parole of any parolee under section 4218(e) or (f) at any time prior to the expiration of the period of time to be served on parole, except in such cases as an extended period may be reasonably necessary for the adjudication of matters arising before such expiration as a result of an approved request by the parolee for postponement of his compliance with any order or warrant of, or any other action taken by, the Regional Board under subsection (c).

"(b) No order issued under section 4218 (e) or (f), including an order resulting in imprisonment, shall apply for any period following the expiration of the period of time to be served on parole as prescribed by section 4213, except that an order may also apply for the extended period referred to in subsection (a).

"(c) In the case of any parolee believed to have violated a condition of his parole, the Regional Board may—

"(1) order such parolee to appear at a revocation hearing not later than twenty-one days from the date of the issuance of the order;

"(2) retake the parolee by means of a warrant issued and executed as provided in this section; or

"(3) take such other action as may be appropriate. Any order or warrant issued under this section shall be issued as soon as practicable following the date of the alleged violation of the condition of parole.

"(d) A warrant for the retaking of a parolee who has violated a condition of his parole may be issued only by the Regional Board, or at least two members thereof, and only prior to the last date on which parole may be revoked as provided by subsection (a).

"(e) Any officer of any Federal penal or correctional institution, or any Federal officer authorized to serve criminal process within the United States, to whom a warrant for the retaking of a parole violator is delivered, shall execute such warrant by taking such prisoner and returning him to the custody of the Regional Board.

"(f) A parolee retaken under this section may be returned to the custody of the Attorney General and imprisoned if the Regional Board determines, after a preliminary hearing, that there is substantial reason to believe that the parollee will not appear for his parole revocation hearing under section 4218 when so ordered. The preliminary hearing shall be held as soon as possible following the retaking of the parolee; and the parolee shall be advised of the charges against him and shall be allowed to testify at such hearing.

"§ 4218. Parole revocation and modification hearing

"(a) If any parolee (other than a parolee referred to in subsection (f)) retaken or ordered to appear under section 4217 contests the revocation of his parole, a hearing (hereinafter referred to in this chapter as a 'parole revocation hearing') shall be held (1) on the date specified in such order or (2) not later than twenty-one days after the date of execution of the warrant for his retaking, whichever is later. Such hearing shall be held at a place reasonably near the location where the alleged violation of parole occurred. At least one member of the Regional Board shall be in attendance at such hearing.

"(b) Prior to the parole revocation hearing, the Regional Board may, subject to section 4217(f), impose such interim modifications of the conditions of parole as may be necessary.

"(c) Upon the issuance of an order or the execution of a warrant under section 4217, the Regional Board shall provide the parolee with written notice of—

"(1) the conditions of parole he is alleged to have violated;

"(2) the time, date, place, and circumstances of the alleged violation;

"(3) the time, date, and place of the scheduled hearing; and

"(4) his rights under this section.

"(d) The hearing procedures shall include—

"(1) proper and timely opportunity for the parolee to examine any evidence on which the order or warrant is based;

"(2) representation by an attorney (retained by the prisoner or appointed pursuant to section 3006A of title 18, United States Code), or such other qualified person as the parolee shall retain, unless the parolee intelligently waives such representation;

"(3) opportunity for the parolee to appear and testify on his own behalf;

"(4) opportunity for the parolee to compel the appearance of witnesses and to confront and cross-examine witnesses; and

"(5) maintenance of a full and complete record of the hearing.

"(e) If the Regional Board finds substantial reason to believe that the parolee violated a condition of his parole, the Regional Board shall inform the parolee in writing not later than ten days after such hearing, stating with particularity the bases of such finding. In such case the Regional Board many order that—

"(1) the parolee receive a reprimand and a warning;

"(2) parole supervision and reporting be intensified;

"(3) the parolee be required to conform to one or more additional conditions of parole imposed in accordance with the provisions of section 4212;

"(4) parole good time allowed under section 4214 be forfeited or withheld.

"(f) In the case of any parolee retaken or ordered to appear under section 4217 on the grounds of an alleged act constituting a violation of parole, for which such act the parolee is charged with a criminal offense under any authority of law, no hearing shall be held but the Regional Board shall make a determination with respect to the revocation of such parolee's parole within a reasonable time after final order or judgment has been entered by the trial court having jurisdiction over the criminal offense. If such parolee is found not guilty or acquitted by such trial court or if the charges against him have been dismissed, the order or warrant issued under section 4217 shall be rescinded. If the parolee is convicted of such criminal offense, such conviction shall constitute prima facie evidence of the violation of the conditions of parole by such parolee, and the Regional Board may make any order referred to in subsection (e) and may, in addition, order that the parolee be reimprisoned.

"§ 4219. Appeals to the National Board

"(a) A parolee whose parole is revoked or who is subject to an order issued under section 4218(e)(3) or (4), may appeal the determination or order by submitting a notice of appeal not later than fifteen days after being informed of such revocation and by submitting appeal papers not later than forty-five days after being so informed. Such appeal shall be considered by no less than three members of the National Board. The parolee shall be allowed to consult with an attorney or any other person concerning such appeal. The National Board shall decide the appeal within a reasonable period of time and shall inform the parolee in writing of its decision and the reasons therefor. Any member of the Regional Board who was present at the parole revocation hearing may present to the National Board such materials as he deems relevant.

"(b) Whenever a prisoner is denied release on parole under section 4205, whenever conditions of parole are imposed or significantly changed under section 4214, or when an order is issued under section 4218(e)(3) or 4218(e)(4), the prisoner or parolee may appeal not later than fifteen days after his being informed of such denial or conditions and by submitting appeal papers not later than forty-five days thereafter. Such appeal shall be considered by no less than three members of the National Board. The prisoner or parolee shall be allowed to consult with an attorney, an employee of the Bureau of Prisons, or any other person concerning such appeal. The National Board shall decide the appeal within a reasonable period of time and shall inform the prisoner in writing of its decision and the reasons therefor.

"§ 4220. Fixing eligibility for parole at time of sentencing

"(a) Upon entering a judgment of conviction, the court having jurisdiction to impose sentence, when in its opinion the ends of justice and best interests of the public require that the defendant be sentenced to imprisonment for a term exceeding one year, may (1) designate, in the sentence of imprisonment imposed, a minimum term at the expiration of which the prisoner shall become eligible for parole, which term may be less than, but shall not be more than one-third of the maximum sentence imposed by the court, or (2) the court may fix the maximum sentence of imprisonment to be served in which event the court may specify that the prisoner may become eligible for parole at such time as the Board of Parole may determine.

"(b) If the court desires more detailed information as a basis for determining the sentence to be imposed, the court may commit the defendant to the custody of the Attorney General, which commitment shall be deemed to be for the maximum sentence of imprisonment prescribed by law, for a study as described in subsection (c) hereof. The

results of such study, together with any recommendations which the Director of the Bureau of Prisons believes would be helpful in determining the disposition of the case, shall be furnished to the court within three months unless the court grants time, not to exceed an additional three months, for further study. After receiving such reports and recommendation, the court may in its discretion (1) place the prisoner on probation as authorized by section 3651 of this title, or (2) affirm the sentence of imprisonment originally imposed, or reduce the sentence of imprisonment, and commit the offender under any applicable provision of law. The term of the sentence shall run from the date of original commitment under this section.

"(c) Upon commitment of a prisoner sentenced to imprisonment under the provisions of subsection (a), the Director, under such regulations as the Attorney General may prescribe, shall cause a complete study to be made of the prisoner and shall furnish to the Board of Parole a summary report together with any recommendations which in his opinion would be helpful in determining the suitability of the prisoner for parole. This report may include but shall not be limited to data regarding the prisoner's previous delinquency or criminal experience, pertinent circumstances of his social background, his capabilities, his mental and physical health, and such other factors as may be considered pertinent. The Board of Parole may make such other investigation as it may deem necessary. It shall be the duty of the various probation officers and Government bureaus and agencies to furnish the Board of Parole information concerning the prisoner, and, whenever not incompatible with the public interest, their views and recommendations with respect to the parole disposition of his case.

"§ 4221. Young adult offenders

"In the case of a defendant who has attained his twenty-second birthday but has not attained his twenty-sixth birthday at the time of conviction, if, after taking into consideration the previous record of the defendant as to delinquency or criminal experience, his social background, capabilities, mental and physical health, and such other factors as may be considered pertinent, the court finds that there are reasonable grounds to believe that the defendant will benefit from the treatment provided under the Federal Youth Corrections Act (18 U.S.C., chap. 402) sentence may be imposed pursuant to the provisions of such Act.

"§ 4222. Warrants to retake Canal Zone parole violators

"An officer of a Federal penal or correctional institution, or a Federal officer authorized to serve criminal process within the United States, to whom a warrant issued by the Governor of the Canal Zone for the retaking of a parole violator is delivered, shall execute the warrant by taking the prisoner and holding him for delivery to a representative of the Governor of the Canal Zone for return to the Canal Zone.

"§ 4223. Report

"The Board of Parole shall investigate the services provided to paroled prisoners and shall submit to Congress an annual report which shall include recommendations for reforming the services currently provided. The initial report shall be submitted not later than twelve months after the effective date of this title.

"§ 4224. Definitions

"As used in this chapter—

"(a) The term 'prisoner' means a Federal prisoner other than a juvenile delinquent or a committed youth offender.

"(b) The term 'parole' means the legally sanctioned release of an offender from a correctional institution to the open community under temporary restrictions for the community's protection and under professional guidance and supervision directed at reintegrating him into society.

"(c) The term 'parolee' means any prisoner released on parole or deemed as if released on parole under section 4164 (relating to mandatory release)."

CONFORMING AMENDMENTS

SEC. 102. (a) (1) Section 5314, United States Code, relating to level III of the Executive Schedule, is amended by adding at the end thereof the following new item:

"(58) Chairman, United States Board of Parole." (2) Section 5108(c)(7) of title 5, relating to classification of positions at GS–16, 17, and 18, is amended to read as follows:

"(7) the Attorney General, without regard to any other provision of this section, may place a total of ten positions of warden in the Bureau of Prisons;".

(b) (1) Section 3655 of title 18, United States Code, relating to duties of probation officers, is amended by striking out "Attorney General" in the last sentence and inserting in lieu thereof "Board of Parole".

(2) Section 3006A(a) of title 18, relating to adequate representation by counsel, is amended by striking out "who is subject to revocation of parole" and inserting in lieu thereof "who is eligible for release on parole or subject to revocation of parole".

(3) Section 3006A(g) of title 18, relating to representation by counsel, is amended by striking out "subject to revocation of parole,".

(4) Section 5005 of title 18, relating to the Youth Correction Division, is amended by striking out "Attorney General" and inserting in lieu thereof "Chairman of the Board of Parole".

(5) Section 5008 of title 18, relating to officers and employees of the Youth Correction Division, is amended by striking out "Attorney General" and inserting in lieu thereof "Chairman of the Board of Parole".

(c) Section 509 of title 28, United States Code, relating to functions of Attorney General, is amended by—

(1) inserting "and" at the end of paragraph (2);

(2) striking out "and" at the end of paragraph (3); and

(3) striking out paragraph (4).

(d) Clause (B) of section 504(a) of title 29, United States Code, relating to prohibition against certain persons holding offices, is amended by striking out "of the United States Department of Justice".

EFFECTIVE DATE OF TITLE

SEC. 103. The amendments made by this title shall apply—

(a) to any person sentenced to a term of imprisonment at any time after one hundred and eighty days after the date of the enactment of this Act, and

(b) except as otherwise may be provided by rule or regulation prescribed under section 104(b), to any person—

(1) sentenced to a term of imprisonment at any time prior to the date one hundred and eighty-one days after the date of the enactment of this Act; or

(2) released on parole at any time prior to the date one hundred and eighty days after the date of the enactment of this Act.

For any purpose other than a purpose specified in the preceding provisions of this section, the effective date of this title shall be the date one hundred and eighty days after the date of the enactment of this Act.

SAVINGS PROVISIONS AND TRANSITIONAL RULES

SEC. 104. (a) Sections 4220 and 4221 of title 18, United States Code, shall not apply to any offense for which there is provided a mandatory penalty.

(b) If, by reason of any computation of (1) eligibility for parole, (2) time of entitlement to release on parole, (3) expiration of parole, or (4) parole good time, or by reason of any other circumstances, the application of any amendment made by this title to any individual referred to in section 103(b) is impracticable or does not carry out the purposes of this title, the National Board established under section 4201 of title 18, United States Code, as amended by this title, may prescribe such transitional rules and regulations for the application of the amendments made by this title to such individuals as may be fair, equitable, and consistent with the purposes of this title.

(c) Nothing in this title shall apply to, or be construed to change or affect in any way, any provision of law contained in chapter 314 of title 18, United States Code (relating to narcotic addicts).

AUTHORIZATION OF APPROPRIATIONS

SEC. 105. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

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SECTION-BY-SECTION ANALYSIS OF THE PAROLE REORGANIZATION AND REFORM ACT OF 1973

Sec. 101: Amends Chapter 311 of Title 18 as follows:

Section 4201. *Board of Parole; members; terms of office.*

This section establishes the Board of Parole as an independent agency consisting of a nine member "National Board" and four "Regional Boards" of three members each. The Board, whose members are appointed by the President for six-year terms, must be broadly representative of persons who have had extensive experience in corrections, such as former parolees, correctional officers, and behavioral scientists.

Section 4202. *Authority of the Board of Parole.*

This section authorizes individual Board members to take any action which their respective Boards are authorized to take. Regional Boards are given the authority to conduct parole determination and parole revocation and modification hearings.

Section 4203. *Administrative powers of the Board of Parole.*

This section sets out the administrative powers of the Board of Parole, such as the authority to hire personnel, to utilize the services of other agencies, to prescribe necessary rules and regulations, and to enter into contracts. National Board is authorized to request the services of probation officers and "other individuals, organizations, and public or private agencies" to perform duties with respect to parolees. An average daily caseload limit of 50 is placed on individual probation officers or other caseworkers, thereby ensuring that parolees are given adequate supervision. This section also gives the Board of Parole subpoena power.

Section 4204. *Time of eligibility for release on parole.*

(a) This subsection retains the existing law which states that when a prisoner is serving a definite term of more than 180 days, he shall be eligible for parole after serving one-third of his sentence, or 15 years of a life sentence or of a sentence of over 45 years. A provision added, however, which would enable a sentencing judge or sentencing jury to specify that persons convicted of murders which are accompanied by certair aggravating circumstances be sentenced to prison with no possibility of parole.

(b)(1) This subsection establishes that any prisoner whose eligibility for release is fixed by the court at the time of sentencing shall be eligible as so provided by the court.

(b)(2) This subsection sets eligibility for parole, in cases where the court has set eligibility date as being "at any time," as being no less than 90 days after the day of imprisonment, or on such earlier date as the Board may determine.

(c) This subsection provides that any prisoners not covered by the above subsections, including any reparolee, shall be eligible for parole within 90 days of his imprisonment.

Section 4205. *Release on Parole.*

This section establishes that the Regional Board shall release a prisoner on parole unless it determines that there is substantial reason to believe that the prisoner will en-

gage in further criminal conduct, or that the prisoner will not conform to such conditions of parole as may be established under section 4212.

Section 4206. *Certain prisoners ineligible for parole.*

This section provides that no prisoner who is ineligible for parole under any other provision of law shall be rendered eligible by the operation of this chapter.

Section 4207. *Factors taken into account in parole determination.*

This section specifically sets out factors which the Regional Board shall take into account in determining whether to release a prisoner. These factors include: the prisoner's family status; his vocational and educational training; his conduct during his term of imprisonment; and the availability of community resources to assist him.

Section 4208. *Information considered by the Regional Board.*

This section lists the sources of information which the Regional Board shall consider in making the parole determination. These sources include reports prepared by institutional case workers, official reports of the prisoner's prior criminal record, and reports of physical, mental, or psychiatric examinations of the offender.

Section 4209. *Parole determination hearing; time.*

This section requires the Regional Board to hold a parole determination hearing no later than 60 days prior to the date on which the prisoner becomes eligible for parole. This section also provides that if parole is denied at the initial hearing, a second hearing must be held within two years. If release is denied at the second hearing, subsequent hearings must be held at least every two years.

Section 4210. *Setting release date.*

This section establishes that the Regional Board must set a release date within one year following the parole release determination.

Section 4211. *Procedure of parole determination hearing.*

This section sets out the procedural requirements of a parole determination hearing, as follows:

(a) written notice of time and place of hearing;

(b) accessibility to any file or report or other document to be used by the Regional Board;

(c) consultation by the prisoner with any person prior to the hearing;

(d) representation by an attorney, or other qualified person;

(e) personal appearance and testimony by the prisoner;

(f) maintenance of full and complete record;

(g) notification of the prisoner within 14 days of the determination; and, in the case of a denial, notification of the particular grounds for the denial.

Section 4212. *Conditions of Parole.*

(a) This subsection provides that the Regional Board shall impose such conditions of parole "as it deems reasonably necessary to insure that the parolee will lead a law-abiding life or to assist him in doing so." In addition, the Regional Board may require that the parolee be assigned to either a Federal, State or private community service center.

(b) This subsection sets forth considerations the Regional Board shall make in imposing conditions of parole, such as making the conditions sufficiently specific to serve as a guide to supervision and conduct.

(c) This subsection requires that the parolee be given a certificate setting forth the conditions of his parole.

Section 4213. *Period of Parole.*

This section provides that the period of parole shall end upon the expiration of the maximum term for which the parolee was sentenced, reduced by good time parole deductions.

At the discretion of the sentencing authority, the parole period may run concurrently with any period of imprisonment, parole, or probation under any other Federal, State, or local sentence. In the case of a parolee who has intentionally failed or refused to respond to any order, request, or warrant of the Board of Parole, the period of time to be served on parole shall be extended for such period as the parolee so refused or failed to respond.

Section 4214. *Parole good time.*

This section authorizes reduction in parole for those who observe all the conditions of their parole, and establishes a schedule for parole reduction. It further provides that good time may be forfeited or withheld only if the Regional Board finds a condition violation after a hearing. The Regional Board is authorized to restore any good time which has been forfeited.

Section 4215. *Discharge from parole.*

(a) This subsection provides that the Board of Parole may terminate parole or alter the parole conditions of any parolee who has served one year of parole.

(b) This subsection requires the automatic termination of parole at the expiration of the period of time to be served on parole.

(c) This subsection requires that the Board of Parole issue a certificate of termination.

Section 4216. *Aliens.*

This section provides that alien prisoners, subject to deportation may be deported as a condition of parole.

Section 4217. *Time for revocation of parole; period of reimprisonment; retaking parolee.*

(a) This subsection provides that the Regional Board may revoke parole under section 4218 (e) or (f) at any time prior to the expiration of the parole period unless a request for postponement is approved.

(b) This subsection stipulates that no parole revocation order issued under section 4218(e) or (f) shall apply for any period longer than the period of time to be served on parole unless there was a postponement.

(c) This subsection authorizes the Regional Board to issue warrants or orders when any parolee is believed to have violated a condition of his parole.

(d) This subsection requires the approval of at least two members of the Regional Board for the issuance of a warrant.

(e) This subsection authorizes any Federal officer who is empowered to serve criminal process to execute such a warrant.

(f) This subsection provides for a preliminary hearing, and authorizes imprisonment only after a Regional Board determination of substantial reason to believe that the parolee will not appear for his parole revocation hearing.

Section 4218. *Parole revocation and modification hearing.*

(a) This subsection provides for a hearing for those whose parole is being modified or revoked for a non-criminal violation of their parole conditions.

(b) This subsection allows necessary modification of the conditions of parole when a revocation hearing is pending.

(c) This subsection sets forth the revocation notification procedure. Written notice is required.

(d) This subsection sets forth hearing procedures, such as representation by an attorney, discovery, subpoena power for the parolee, and maintenance of a full record of the hearing.

(e) This subsection enumerates the sanctions which the Regional Board may impose on a parolee when it finds substantial reason to believe he has violated a condition of his parole. The Regional Board is required to inform the parolee of the reasons for their finding.

(f) This subsection provides that when a parolee is charged with a criminal offense no hearing need be held. Conviction shall constitute prima facie evidence of the violation of the conditions of parole.

Section 4219. Appeals to the National Board.

(a) This subsection provides a written appeal procedure for those whose parole is revoked or who are subject to an order for loss of good time or for assignment to a community service center. The appeal provided by this section is to be considered by no less than three members of the National Board.

(b) This subsection provides for a written appeal procedure for those prisoners who are denied release under section 4205, those who receive conditions of parole under section 4212, or who are subject to an order issued under sections 4218(e)(3) or 4218(e)(4). Both subsections require that the National Board shall inform the prisoner or parolee of its decision and the reasons therefor in writing.

Section 4220. *Fixing eligibility for parole at time of sentencing.*

(a) This subsection sets forth the alternatives a sentencing court may use in fixing time of eligibility for parole.

(b) This subsection allows the commitment of a defendant for three months for pre-sentence study.

(c) This subsection stipulates that all prisoners be studied upon commitment and that a report be furnished to the Board of Parole. This report would include the prisoner's history and other such factors and recommendations as may be considered pertinent. It further empowers the Board of Parole to require information concerning the prisoner from Government bureaus and agencies.

Section 4221. *Young adult offenders.*

This section retains the present law regarding sentencing of youth offenders under the Youth Corrections Act.

Section 4222. *Warrants to retake Canal Zone violators.*

This section sets out procedures for the issuance and execution of warrants to retake Canal Zone parole violators.

Section 4223. *Report.*

This section requires that the Board of Parole investigate parole services and report annually to Congress its recommendations for improving services.

Section 4224. *Definitions.*

This section sets forth definitions of terms used in this chapter.

Section 102. *Conforming amendments.*

The only substantive change appears in subsection (2), which amends the Criminal Justice Act to provide for appointment of attorneys not only at parole revocation hearings, but also at release hearings.

Section 103. *Effective date of title.*

This section provides generally that the bill shall take effect 180 days after enactment.

Section 104. *Savings provisions and transitional rules.*

This section provides that whenever the application of the effective date provisions is impracticable, the National Board can prescribe necessary and equitable rules and regulations. The bill does not apply to the Narcotics Addict Rehabilitation Act.

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By Mr. BAYH (for himself, Mr. BROOKE, Mr. ABOUREZK, and Mr. CLARK):

S. 1766. A bill to require periodical financial disclosure by officers and certain employees of the Federal Government, to establish criminal penalties for unfair campaign practices, to strengthen Presidential campaign financing laws, to amend the Federal Election Campaign Act of 1971, and for other purposes. Referred to the Committee on Rules and Administration.

CAMPAIGN AND ELECTION REFORM ACT OF 1973

Mr. BAYH. Mr. President, I have long been concerned with the growing public cynicism and loss of confidence in Government. More than 2½ years ago I introduced two bills aimed at establishing new standards of conduct for public officials, the Judicial Disqualification Act and the Omnibus Disclosure Act. Both were outgrowths of lessons learned during the debates over the qualifications of Supreme Court nominees.

Day after day banner headlines furnish new disclosures which continue to undermine the already shaky faith of our citizens in their Government in general, and which erode public confidence in the integrity of public officials and the electoral process in particular. The callous subversion of the political process represented by the Watergate affairs is a national tragedy of major proportions.

Too many good Americans believe the tactics of Watergate are business as usual in the political and governmental process. Bugging, burglary, bribery, and perjury are not acceptable in the political process. It is a national tragedy that such acts are accepted and associated as part of the political process in the public mind today.

I believe we in the legislative branch have an obligation to act quickly to help restore and assure faith in the integrity of all branches of our Government, our electoral process and our public officials by strengthening our laws in a manner designed to prevent recurrence of this tragedy.

I recognize that the Senate Select Committee on Presidential Campaign Practices, chaired by Senator ERVIN, has been charged not only with investigating the Watergate and associated wrongdoing, but with developing appropriate legislative remedies. However, even as the investigation continues, certain lessons have already become obvious. The need for appropriate legislation in several specific areas is already clear.

It is essential that while we await the outcome of the select committee investigation and its comprehensive recommendations for new legislation, we move forward to address those weaknesses in the law which are already apparent.

Therefore, I am today introducing a bill, the Campaign and Election Reform Act of 1973, designed to correct several specific deficiencies in current law.

The bill provides for uniform personal financial disclosure reports by all employees of the Federal Government whether in the executive, legislative or judicial branches, who have incomes of over $18,000 per year. If there are conflicts of interest, the public has a right to know.

It amends the Federal criminal laws to make it a crime for a candidate or a political party or their agent to falsely represent themselves as speaking for or acting for another candidate of political party. And it makes burglary, trespassing, and extortion Federal offenses when carried out by one candidate or party or agent thereof against another candidate or party.

This bill deals with the tremendous cost of Presidential campaigns and the problems and temptations of political fund raising.

It modifies the Presidential Election Campaign Fund Act of 1971 to increase the amount an individual can check off on his income tax for the Presidential campaign fund from $1 to $2. Furthermore, it limits total campaign spending by Presidential candidates or their parties to the greatest amount allocated from public funds to any candidate.

It changes the criminal penalties for violation of campaign reporting requirements from misdemeanors to felonies in cases where violations exceed $5,000.

And finally, it provides a procedure for the appointment of a special prosecutor by the Comptroller General when necessary to insure speedy and full prosecution of campaign reporting violations.

This bill is intended to establish new standards, new rules, and procedures to insure that future Federal elections will be as free as possible of the abuses such as those which lead to and where specifically involved in the Watergate affair. In his televised speech on Monday evening President Nixon indicated that such new standards, rules, and procedures are his goal. I hope he will give his support to this legislation.

The national tragedy we refer to as Watergate came about as the result of zealotry. No legislation can possibly provide an absolute assurance that imperfect and zealous men will not engage in illegal and unethical activity intended to corrupt the electoral process. But insofar as it is possible to do so, this bill serves to deter such activities and to insure justice.

Title I of this legislative proposal, the omnibus disclosure section, is designed to impose uniform financial disclosure requirements upon all employees and officers of the three branches of our Government who earn in excess of $18,000 per year. This title represents a reintroduction of a bill which I introduced in May 1971 and is, I believe, a crucial part of the effort to bring about increased confidence in public officials. It is designed to make full and complete reports available to any interested member of the general public at a convenient and easily accessible place. Under its provisions all Federal employees and officers earning over $18,000 must file with the Comptroller General of the United States by May 1 of each year the following information: First, the identity and value of interests in real or personal property worth more than $500; second, creditors to whom more than $1,000 is owed and the amount of each such debt; third, dealings in securities or commodities; fourth, transactions in real property; fifth, gifts of more than $100; sixth, the amount and source of each contribution to defray campaign or office expenses; and seventh, except in the case of nonincumbent candidates, the identity of each client who pays more than $1,000 to a law firm with which an individual obligated under the act is associated.

Title II contains a series of new Federal criminal statutes which would make certain actions by political parties and candidates for Federal office or any person or group acting as their agent a crime against the United States. For example, a political party or candidate or their agent who fraudulently represents himself as speaking or acting on behalf of another candidate or political party where the effect is to damage that candidate or party in a material way would violate title II. In addition, the common law crimes of burglary, criminal trespass, and extortion are made Federal crimes when they are committed by one candidate or political party or their agents against another candidate or party. Although these are, of course, presently criminal offenses in all our States and the District of Columbia, in my view recent events strongly suggest that our electoral process may well need the added protection of making such acts a Federal offense so that if we are confronted with a situation where a series of such crimes are committed in various places around the country, they can be investigated by a single agency and prosecuted efficiently.

Title III is designed to strengthen the provisions of the Internal Revenue Code which permit each taxpayer to indicate that he wants to direct certain amounts of his Federal income tax to finance Presidential election campaigns. This bill contains four substantive provisions designed to accomplish this goal. First it would raise the amount of the checkoff provision from its present $1 per person to $2—or $4 for each married couple filing a joint return. Second, it would require that the taxpayer be adequately informed about the existence of the checkoff provision and the fact that it will not increase his tax liability. My friend from Minnesota (Mr. MONDALE) has already introduced a bill (S. 109) designed to accomplish this purpose which I have cosponsored. The provision in my bill, however, goes one step further requiring that specific language be put on the first page of individual income tax forms permitting the checkoff and stating that to take advantage of the option will not increase a citizen's tax liability. The third provision of this title is designed to remove a potential barrier to the proper operation of the fund; the fact that no moneys accumulated under the checkoff plan could be spent without further appropriations by the Congress. My bill would, as did the Senate version of the bill, make such appropriations from moneys accumulated by the checkoff automatic. Finally, and most importantly, under the bill, no Presidential candidate could spend an amount which exceeded that allocated to the candidate receiving the largest amount under the checkoff system, whether he chose to receive funds from the Presidential campaign fund or not. The effect of this section would be to limit the amount that could be spent on Presidential campaigns, and make all or the bulk of the money come from public revenues—thus eliminating or sharply reducing the role that private special interests play in national political campaigns.

Finally, title IV is aimed at strengthening the reporting provisions contained in the Federal Election Campaign Act of 1971. Such provisions are needed, in my view, in light of recent events which strongly suggest that the 1971 act has not been effective. Under this title, the penalties for violating the act would be increased from their present level of a

$1,000 fine and a year's imprisonment to a fine of up to $50,000 and up to 5 years imprisonment, in cases where the violations exceed $5,000 in a 12-month period. Second, the bill would provide for the use of civil fines of up to three times the amount involved in each violation. The desirability of civil fines as an enforcement tool has been strongly suggested by the Director of the Office of Federal Elections in recent testimony before Senator PELL's subcommittee. Finally, title IV addresses an enforcement problem which current events suggest constitute a serious weakness in the act. If the Comptroller General determines that violations which have been referred to law enforcement authorities under the statute are not being promptly and properly investigated and prosecuted, he is empowered to name a special prosecutor who will have full authority to investigate the violations and to present such evidence to the courts in either criminal or civil proceedings.

Consistent with the introduction of this bill, earlier this week I cosponsored S. 1103, a bill proposed by Senator HART, which provides for a system of public funding of congressional elections.

I believe a system of public funding such as that contained in S. 1103 and in the bill I am introducing today goes a long way toward correcting abuses which are encouraged by present campaign financing practices.

I recognize that some will consider the public financial disclosure provisions of my bill to be an unwarranted invasion of personal privacy. However, I am convinced that the loss of privacy in this particular area is a small price to pay for the increased public confidence in Government which will result.

Because of my concern about the erosion of public confidence in Government and in the integrity of public officials, I have made a full public disclosure of my assets and liabilities each year for the past 3 years. Although they are not required by current law, I have made these public financial disclosures and will continue to do so in order to indicate my good faith and my concern for the need of the voters to have access to detailed information on the financial affairs of Members of the House and the Senate.

Today, I have taken the additional step of requiring members of my staff who earn in excess of $18,000 per year to file full and complete financial disclosures with the Secretary of the Senate and to authorize public access to such disclosures.

I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD at this point.

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

S. 1766

*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 "Campaign and Election Reform Act of 1973".

TITLE I—OMNIBUS DISCLOSURE

DEFINITIONS

SEC. 101. As used in this Act—

(1) The term "Federal officer or employee" means any Member of Congress, congressional employee, Federal executive officer, Federal executive employee, candidate, Federal judicial officer, or Federal judicial employee.

(2) The term "Member of Congress" means any Member or Member-elect of the Senate or House of Representatives, and each Resident Commissioner or Resident Commissioner-elect of the House of Representatives.

(3) The term "congressional employee" means any individual (other than a Member of Congress) who is an elected officer of the Senate or House of Representatives or an employee of the Vice President, the Congress, either House of the Congress, or any Member of any committee of the Congress, and who receives compensation disbursed by the Secretary of the Senate or the Clerk of the House of Representatives at the rate of $18,000 or more per annum.

(4) The term "Federal executive officer" means the President of the United States, the Vice President of the United States, any civilian officer of the United States (other than a Federal judicial officer) appointed by the President by and with the advice and consent of the Senate or serving under a recess appointment made by the President, and any commissioned officer of any of the Armed Forces serving on active duty for a period of more than thirty days (as such terms are defined by section 101, title 10, United States Code) who receives basic pay at the rate of $18,000 or more per annum.

(5) The term "Federal executive employee" means any civilian officer or employee of any executive or military department, agency, or office of the United States, or any independent agency, corporation, or other instrumentality of the United States, who receives compensation disbursed by the United States, or by such department, agency, office, corporation, or other instrumentality, at the rate of $18,000 or more per annum and who is not included within any of the classes of individuals described in paragraphs (2), (3), (4), (7), and (8) of this section.

(6) The term "candidate" means any individual who has voluntarily qualified as a candidate in any primary election to be conducted within any State for nomination as a candidate for election as the President of the United States, the Vice President of the United States, or a Member of Congress, or who has qualified as a candidate in any general or sepecial election to be conducted within any State for election to any such position.

(7) The term "Federal judicial officer" means any justice or judge of a court of the United States (as defined by section 451, title 28, United States Code), the Tax Court of the United States, the United States Court of Military Appeals, the United States District Court for the District of Canal Zone, the District Court of the Virgin Islands, or the District Court of Guam, and any full-time United States magistrate.

(8) The term "Federal judicial employee" means any officer or employee of any court named in paragraph (7) other than a justice or judge of that court, and any officer or employee of the Administrative Office of the United States Courts, who receives from appropriated funds of the United States compensation at the rate of $18,000 or more per annum.

(9) The term "income" means each item of income from whatever source, whether or not taken into account for purposes of computing the tax imposed by chapter 1 of the Internal Revenue Code of 1954.

(10) The term "security" means any security as defined in section 2 of the Securities Act of 1933, as amended (15 U.S.C. 77b).

(11) The term "commodity" means any commodity as defined in section 2 of the Commodity Exchange Act, as amended (7 U.S.C. 2).

(12) The term "dealing in securities or commodities" means any acquisition, holding, withholding, use, transfer, disposition, or other transaction involving any security or commodity.

(13) The term "political campaign expense" means a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any candidate.

(14) The term "congressional office expense", when used with respect to a Member of Congress, includes but is not limited to, expense incurred by such Member for any of the following objects: travel to, from, and within the State or congressional district of the Member; printing and other expenses in connection with the mailing of speeches, newsletters, and reports to constituents of the Member; expenses of radio, television, and news media methods of reporting to constituents of the Member; telephone, telegraph, postage, and stationery expenses in excess of allowances provided by law; subscriptions to newspapers and other periodicals published within the State or congressional district of the Member; and staff compensation and travel in excess of allowances provided by law.

FINANCIAL DISCLOSURE REQUIREMENT

SEC. 102. (a) On or before May 1 of each calendar year, each individual who has served at any time during the preceding calendar year as a Federal officer or employee other than a candidate shall file with the Comptroller General a financial disclosure report, conforming to the requirements of this Act, for such preceding year.

(b) Within thirty days after the date on which any individual, not otherwise a Federal officer or employee, becomes a candidate, such individual shall file with the Comptroller General a financial disclosure report, conforming to the requirements of this Act, for the calendar year preceding the date on which he became a candidate.

(c) Service rendered by an individual as a congressional employee, Federal executive employee, or Federal judicial employee for a period not exceeding thirty days in the aggregate during any calendar year shall not be considered to be such service during that year for the purposes of this section.

(d) No individual shall be required by this section to file more than one financial disclosure report for any calendar year.

CONTENTS OF REPORTS

SEC. 103. (a) Each financial disclosure report required to be filed by any individual under this Act for any calendar year shall contain a full and complete statement of—

(1) the identity and value of each interest in real or personal property having a value in excess of $500 of which such individual was the owner at any time during that year;

(2) the identity of each creditor to whom such individual at any time during that year owed one or more legally enforceable financial obligations aggregating $1,000 or more, and the nature and amount of each such obligation;

(3) the value and source of each item of income, including honoraria, and each item of reimbursement for expenditure other than the exact cost of transportation, exceeding $100 in value received by such individual during that year;

(4) each dealing in securities or commodities by such individual during that year;

(5) each purchase and sale of real property or any interest therein by such individual during that year;

(6) the nature, source, and value of each gift of money or property received by such individual during that year from each source, other than his parents, spouse, and children, from whom such individual during that year received one or more such gifts having an aggregate value of $100 or more;

(7) the amount and source of each contribution received during that year by him, or to his knowledge by any other individual, political committee, or other organization or

his behalf or for his account, to defray any political campaign expense or any congressional office expense of such individual; and

(8) the identity of each client who, during that year and while such individual was a Federal officer or employee other than a candidate, paid to any law firm of which such individual is or then was a partner, or with which such individual is or then was otherwise associated professionally, one or more fees in an aggregate amount exceeding $1,000: *Provided,* That this provision shall not apply to any individual who is a Federal officer or employee solely by virtue of being a candidate.

(b) Whenever during any calendar year any individual while serving as a congressional employee receives any contribution to defray any political campaign expense or any congressional office expense on behalf of or for the account of a Member of Congress, without knowledge by such Member as to the source or amount of such contribution, such congressional employee shall file with the Comptroller General on or before May 1 of the next succeeding calendar year on behalf of such Member a financial disclosure report containing the information which such Member would have been required by subsection (a) to report if such information had been disclosed to him.

LAW FIRM CLIENTS

SEC. 104. Whenever any Federal officer or employee other than a candidate reports pursuant to paragraph (8) of section 4(a) with respect to any year the identity of any client of a law firm of which such individual is or then was a partner, or with which he is or then was otherwise associated professionally, such report shall—

(1) state whether the client so identified was a client of that firm before the date on which the individual submitting that report became a Federal officer or employee; and

(2) identify any legal or administrative action or proceeding in which the United States or any department or agency thereof was an interested party and with regard to which that client was represented by that firm during that year.

ATTRIBUTION RULES

SEC. 105. (a) For the purposes of this Act, there shall be attributed to any individual required to file a financial disclosure report the assets, liabilities, receipts, and transactions of, and gifts to—

(1) any person acting on behalf of or for the account of such individual;

(2) the spouse and minor children of such individual;

(3) any corporation of which such individual owns 50 per centum or more of the outstanding capital stock;

(4) a share of any partnership of which such individual is a partner, or with which he is associated, determined in accordance with the extent of his partnership or other interest therein;

(5) any revocable trust of which such individual was a settler; and

(6) a share of any trust or estate of which such individual is a beneficiary, determined in accordance with the present actual or actuarial value of his beneficial interest therein.

(b) Paragraph (5) and paragraph (6) of subsection (a) shall not require the disclosure by any individual of any information which he does not possess and which he is precluded by the terms of a trust from acquiring.

FORMS AND REGULATIONS

SEC. 106. The Comptroller General shall prepare and supply to individuals obligated by this Act to file financial disclosure reports, appropriate forms for such reports, and shall prescribe regulations governing the preparation of such reports. Such regulations shall (1) specify the detail in which each category of information shall be stated in financial disclosure reports filed under this Act, (2) specify the method by which the value of property and interests therein shall be ascertained for the purposes of this Act, and (3) contain such other requirements as the Comptroller General may determine to be necessary to carry out the purposes of this Act.

PUBLIC INSPECTION OF REPORTS

SEC. 107. (a) Each financial disclosure report filed under this Act shall be placed in a file which shall be established by the General Accounting Office. The Comptroller General shall prepare an appropriate index to that file to facilitate the identification of and access to all reports filed by or on behalf of each individual which are contained at any time in that file.

(b) Except as otherwise provided by this subsection, each such report so filed by or on behalf of any individual who is serving as a Federal officer or employee at the time of the filing of that report shall be maintained in such file as long as such individual serves continuously as a Federal officer or employee, and for five years after the end of such service. Each such report filed by any individual who is a candidate, or who is not a Federal officer or employee at the time of the filing of that report, shall be maintained in such file for a period of five years after the date on which that report is filed.

(c) Under such reasonable regulations as the Comptroller General shall prescribe, reports contained in that file and the index thereto shall be made available for inspection by members of the public during business hours of the General Accounting Office.

(d) The Comptroller General shall furnish to the Attorney General upon request a true and correct copy of any financial disclosure report contained in that file.

PENALTY

SEC. 108. Whoever, being an individual required by this Act to file any financial disclosure report—

(1) willfully fails to file such report within the period of time prescribed by this Act;

(2) files any such report containing any information which is false or misleading, with knowledge or with reason to believe that such information is false or misleading; or

(3) files any such report from which there has been omitted any information required by this Act or by regulations promulgated thereunder to be contained therein, with intent to conceal such information,

shall be fined not more than $20,000, or imprisoned not more than five years, or both.

CONGRESSIONAL RULES

SEC. 109. (a) This section is enacted by the Congress:

(1) As an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and this section shall supersede other rules of each such House only to the extent that it is inconsistent therewith; and

(2) With full recognition of the constitutional right of either House to change the provisions of this section (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

(b) Rule XLIV of the Standing Rules of the Senate and rule XLIV of the Rules of the House of Representatives are hereby repealed.

EFFECTIVE DATE

SEC. 110. This Act shall take effect on the first day of the second calendar year beginning after the date of enactment of this Act.

TITLE II—CRIMINAL PENALTIES FOR UNFAIR CAMPAIGN PRACTICES

SECTION 201. Definitions—(a) The term "candidate" means any individual who has voluntarily qualified as a candidate in any primary election to be conducted within any State for nomination as a candidate for election as the President of the United States, the Vice President of the United States, or a Member of Congress, or who has qualified as a candidate in any general or special election to be conducted within any State for election to any such position.

(b) The term "political party" means—

(1) a political party;

(2) a National, State, or local committee of a political party; or

(3) a committee, association, or organization, whether incorporated or not, which directly or indirectly accepts contributions (as defined in Section 271(b)(2) of Title 26 of the United States Code) or makes expenditures (as defined in Section 271(b)(C) of Title 26, United States Code) for the purpose of influencing or attempting to influence the selection, nomination, or election of any individual to any Federal office, or the election of presidential and vice presidential electors, whether or not such individual or electors are selected, nominated, or elected.

SEC. 202. Whoever, being a candidate as defined by this section for federal office, or an employee or agent of such a candidate,

(a) fraudulently misrepresents himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a material matter which is or may be damaging to such other candidate or political party or employee or agent thereof; or

(b) willfully and knowingly participates in or conspires to participate in any plan, scheme, or design to violate paragraph (a) hereof, shall, for each such offense, be fined not more than $50,000 or imprisoned not more than five years or both.

SEC. 203. A candidate or political party as herein defined or any agent or organization under the control of or acting at the direction of such candidate or political party who shall, either in the nighttime or in the daytime, break and enter, or enter without breaking, any office, dwelling, or other building owned, used, or occupied by any candidate or political party with the intent to break and carry away any part thereof, or any fixture or other thing attached to or connected thereto, shall be fined not more than $50,000 or imprisoned not more than five years or both.

SEC. 204. A candidate or political party as herein defined or any agent or organization under the control of or acting on behalf of and at the direction of such candidate or political party who, without lawful authority, shall enter, or attempt to enter, any public or private dwelling, building or other property owned, used, or occupied by any candidate or political party as defined in this section, or part of such dwelling, building or other property, against the will of the lawful occupant or of the person lawfully in charge thereof, or being therein or thereon shall refuse to quit the same on the demand of the lawful occupant, or of the person lawfully in charge thereof, shall be punished by a fine not exceeding $50,000 or imprisoned not more than one year or both.

SEC. 205. A candidate or political party as herein defined or any agent or organization under the control of or acting at the direction of such candidate or political party who, with intent to extort any money or other thing or value from any candidate or political party as defined in this section transmits any communication containing any threat to injure the property or reputation of the recipient of the communication or of another or any threat to accuse the recipient of the communication or any other person of a crime, shall be fined not more than $50,000 or imprisoned not more than one year, or both.

TITLE III—STRENGTHENING PRESIDENTIAL CAMPAIGN FINANCING LAWS

SECTION 301. Section 6096(a) of the Internal Revenue Code of 1954 is amended by striking out "$1" wherever it appears and inserting in lieu thereof "$2", and by striking out "$2" wherever it appears and inserting in lieu thereof "$4".

SEC. 302. The first page of an individual's income tax form shall contain in a prominent place the necessary form for an individual to make the designation provided for in section 6096(a) of the Internal Revenue Code of 1954, together with the following statement in bold type: "Designating that $2 (or $4 for a husband and wife filing jointly) shall be paid over to the Presidential Election Campaign Fund will not increase your tax liability."

*SEC. 303.* (a) Notwithstanding any other provision of law, no legally qualified candidate in an election (other than a primary election) for the office of President of the United States shall spend for the purposes of such election an amount in excess of the greatest amount to which the eligible candidates of a major party are entitled under section 9004(a)(1) of the Internal Revenue Code of 1954 in that election, regardless of the source of the funds used for such expenses.

(b) For purposes of subsection (a) any expenditure made by the agent of a candidate, a political committee registered under section 303 of the Federal Election Campaign Act of 1971 whose statement of organization sets forth the name of the candidate, by any person authorized in writing by the candidate to make that expenditure, or otherwise made on behalf of that candidate with his knowledge, shall be considered to have been made by that candidate.

(c) Willful violation of the provisions of subsection (a) is punishable by a fine of not to exceed $50,000, imprisonment for not to exceed 5 years, or both.

SEC. 304. Section 9006(a) of the Internal Revenue Code of 1954 is amended by—

(1) inserting after the second sentence thereof the following: "There are hereby appropriated to the fund each fiscal year, out of any moneys in the Treasury not otherwise appropriated, an amount equal to the sum of the amounts designated during the fiscal year by individuals under section 6096 of the Internal Revenue Code of 1954 for payment into the fund.", and

(2) striking out ", as provided by appropriation Act," in the last sentence thereof.

## TITLE IV—TO AMEND THE FEDERAL ELECTION CAMPAIGN ACT OF 1971

SECTION 401(a) Section 311 of the Federal Election Campaign Act of 1971 is amended to read as follows:

"(a) Any person who violates any of the provisions of this subchapter where the amount of such violations totals more than $5,000 during any twelve month period shall be fined not more than $50,000 or imprisoned not more than five years, or both.

"(b) Any person who violates any of the provisions of this subchapter where the amount involved in such violations totals less than $5,000 during any twelve month period shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(c) Any person determined under section 308(d)(1) or in any other proceeding before a district court of the United States to have violated any provision of this title shall be subject to a civil penalty not to exceed three times the amount involved in such violation."

SEC. 402. (a) Section 308 of the Federal Election Campaign Act of 1971 is amended by adding at the end thereof the following new subsection:

"(e) A copy of a referral made by the supervisory officer other than the Comptroller General to a law enforcement agency pursuant to section 308(a)(12) of this Act shall be furnished to the Comptroller General by that supervisory officer within 24 hours of such referral."

(b) Title III of such Act is amended by adding at the end thereof the following new section:

"SPECIAL PROSECUTIONS"

"SEC. 312. (a) Whenever the Comptroller General determines that violations referred to Federal law enforcement authorities under section 308 are not being promptly and properly investigated and prosecuted, he is authorized to appoint, under section 3109 of title 5, United States Code, one or more special prosecutors for the purpose of investigating such violations and presenting them to the appropriate Federal grand jury for consideration, or, in the case of civil fines, to the appropriate Federal District Court.

"(b) Notwithstanding the provisions of section 516 of title 28, United States Code, any individual appointed as a special prosecutor under subsection (a) may prosecute for any violation of the provisions of this title in the district in which the defendant indicted for such violation may be tried."

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## SECTION-BY-SECTION ANALYSIS OF THE CAMPAIGN AND ELECTION REFORM ACT OF 1973

### TITLE I—OMNIBUS DISCLOSURE

*Definitions*

Section 101—This section defines fourteen terms which are used in the act.

*Financial disclosure requirement*

Section 102—This section requires members of all three branches of government to file a financial disclosure report with the Comptroller General on or before May 1 of each year. This disclosure requirement applies to all Federal judges and justices, the President and Vice President and all Members of Congress. The provision also applies to Federal officials and to those employees of Members of Congress, Congress itself, the judiciary, and the executive branch who receive more than $18,000 a year and have served for more than 30 days. Candidates for Congress, the presidency and vice-presidency are also required to file disclosure reports within 30 days of becoming a candidate.

*Contents of reports*

Section 103—The disclosure reports required must contain the following information: (1) the identity and value of interests in real or personal property worth more than $500, (2) creditors to whom more than $1,000 is owed and the amount of each such debt, (3) sources and amount of income greater than $100, (4) dealings in securities or commodities, (5) transactions in real property, (6) nature, source and value of each nonfamily gift of more than $100, (7) the amount and source of each contribution to defray campaign or office expenses, and (8) except in the case of nonincumbent candidates, the identity of each client who pays more than $1,000 to a law firm with which an individual obligated under the act is associated.

*Law firm clients*

Section 104—Those who list law firm clients under section 103 must state whether the client sought the services of the individual's law firm before or after he entered government. The individual must also list any administrative or judicial action in which the United States was a party and in which the client was represented by that firm.

*Attribution rules*

Section 105—This section attributes to any individual required to file under section 102 the assets, liabilities, receipts, transaction and gifts of (1) any person acting on the individual's behalf, (2) his immediate family, (3) any corporation of which he owns more than one half of the stock, (4) a proportional share of any partnership of which he is a partner, and (5) certain trusts and estates depending on his knowledge and interest.

*Forms and regulations*

Section 106—The Comptroller General shall supply forms for reports required under the act and shall prescribe regulations governing the preparation of such reports.

*Public inspection of reports*

Section 107—The General Accounting Office shall keep a file of financial disclosure reports, open to public inspection for a period of five years after each individual leaves government service.

*Penalty*

Section 108—Any individual who fails to file within the time period, files false or misleading information or omits information is subject to a $20,000 fine, or 5 years imprisonment or both.

*Congressional rules*

Section 109—Congress exercises its rule making power to repeal inconsistent rules of each house and to explicitly repeal Rule XLIV of the Standing Rules of the Senate and Rule XLIV of the Rules of the House of Representatives.

*Effective date*

Section 110—The act takes effect on the first day of the second calendar year after enactment.

### TITLE II—CRIMINAL PENALTIES FOR UNFAIR CAMPAIGN PRACTICES

*Definitions*

Section 201—This section defines the terms "candidate" and "political party". Candidate is defined to include any person who had qualified, either by primary election or other method, to run for President, Vice President, or Member of Congress. The definition of political party is taken from current law.

*Misrepresentation by a candidate or political party*

Section 202—This section makes it a federal criminal offense for any candidate or political party or anyone acting as an agent of such candidate or party to represent themselves as speaking for or on behalf of another candidate or political party when the effect may be to damage that candidate or party in a material matter, or to conspire to engage in such misrepresentation. Violation of this section is punishable by a fine of up to $50,000 or up to one year imprisonment, or both.

*Breaking and entering*

Section 203—This section makes it a federal criminal offense for any candidate or party or agent of such candidate or party to commit the common law crime or burglary on any property owned or occupied by any other candidate or political party. Violation of this section is punishable by a fine of up to $50,000 or up to five years imprisonment, or both.

*Criminal trespass*

Section 204—This section makes it a federal criminal offense for any candidate or party or any agent acting on their behalf to commit the common law crime of criminal trespass on any property owned or occupied by any other candidate or political party. Violation of this section is punishable by a fine of up to $50,000 or up to one year imprisonment, or both.

*Extortion*

Section 205—This section makes it a federal criminal offense for any candidate or political party or any agent on their behalf to commit the common law crime of extortion against any other candidate or political party. Violation of this section is punishable by a fine of up to $50,000 or imprisonment of up to one year, or both.

### TITLE III—STRENGTHENING PRESIDENTIAL CAMPAIGN FINANCING LAWS

*Increased check-off*

Section 301—This section increases the amount of his taxes that an individual can designated for the Presidential Election Campaign Fund from $1 to $2 ($2 to $4 for a joint return).

*Notice of check-off*

Section 302—This section provides that the first page of the individual income tax forms shall contain "in a prominent place" the form needed to make a designation of

funds for the Presidential Election Campaign Fund, together with the following statement in bold type: "Designating that $2 (or $4 for a husband and wife filing jointly) shall be paid over to the Presidential Election Campaign Fund will *not* increase your tax liability."

*Limits on spending in Presidential campaigns*

Section 303—This section provides in subsection (a) that the amount that any legally qualified candidate for President may spend in the election campaign (not including primary campaigns) is limited to an amount equal to the greatest amount to which any candidate is eligible from the Presidential Election Campaign Fund, regardless of whether the candidate gets his money from the Fund or from private sources. Subsection (b) provides that expenditures made by an agent of a candidate, or a political committee of the candidate, or made on behalf of the candidate with his knowledge will be considered expenditures of the candidate. Subsection (b) also provides a criminal penalty of up to five years and $50,000 for willful violation of this section.

*Permanent appropriations*

Section 304—This section eliminates the requirement that funds be appropriated to the Presidential Election Campaign Fund before they are expended; the amount which taxpayers check-off will automatically be placed in the Fund. This restores the Senate passed version of the check-off.

TITLE IV—TO AMEND THE FEDERAL ELECTION CAMPAIGN ACT OF 1971

*Increased criminal penalties*

Section 401 (a) and (b)—This section increases the criminal penalties for violations of the Federal Election Campaign Act of 1971 when the amount of such violations in any twelve month period totals more than $5,000, from one year and $1,000 to five years and $50,000. For violations totaling less than $5,000 the present penalty remains in effect.

*Civil penalties*

Section 401(c)—This section provides for the first time for civil penalties for violation of the Federal Election Campaign Act of 1971 of up to three times the total amount of such violation.

*Transmittal to the Comptroller General*

Section 402(a)—This section requires that the officer who collects reports under the Federal Election Campaign Act of 1971 and who refers a violation under that Act to a law enforcement authority, to transmit a copy of such referral to the Comptroller General within 24 hours.

*Special prosecutors*

Section 402(b)—This section authorizes the Comptroller General, when he determines that a violation of the Federal Election Campaign Act of 1971 which he has referred to law enforcement authorities is not being promptly and properly investigated and prosecuted, to appoint a special prosecutor to investigate the violations and present them to an appropriate federal grand jury or federal court for consideration.

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By Mr. CURTIS:

S. 1767. A bill to amend the Federal Water Pollution Control Act. Referred to the Committee on Public Works.

Mr. CURTIS. Mr. President, I am introducing today for appropriate reference an amendment to Public Law 92–500, the Federal Water Pollution Control Act Amendments of 1972. This act defines the term "point source" as any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are now or may be discharged.

It may be noted that the concentrated animal feeding operation is the only operation singled out and specifically named in the definition. This in itself is unjust discrimination and entirely unrealistic from a practical point of view. A concentrated feeding operation is not constructed for the purpose of conveying pollutants away from their source, as is the case with pipes, ditches, channels, and the like named in the definition.

Furthermore, any discharge from a feedlot results entirely from an act of nature, not from an intended act of the operator, as is the case with the discharge of pollutants from vessels, manufacturing plants, and other such operations via discernible, defined, and discrete conveyances enumerated in the point source definition.

If the feedlot operator does, in fact, install a pipe or other type of conveyance as a part of a confined feeding structure for the purpose of carrying pollutants from their source, or constructs a ditch, channel, or other such structure for the same purpose, said conveyance should indeed be considered a point source, and would be under the present definition without the inclusion of the feeding operation itself.

The point source definition, with the exception of the concentrated animal feeding operation, defines discernible, confined, and discrete conveyances for pollutants. The feeding operation does not fit in this category and is foreign to the definition. Therefore, it should be deleted.

After establishing the unjust discrimination against concentrated animal feeding operations by naming the feeding operation in the definition of point source, it seems only logical to put the water pollution potential of concentrated animal feeding operations, hereinafter called feedlots, in proper perspective. It is accurate to say that the water pollution potential from animal waste is only a fraction of the actual waste excreted by feedlot animals.

Tests have shown that a 1,000-pound steer will give off 15 to 16 times more solid waste than one human being. We emphasize, though, that we are talking about water pollution potential. All of the human waste is flushed down the drain, plus dishwater, bath water, laundry water, garbage, et cetera. A 1,000-pound steer does not "flush" anything, unless we have at least a 1-inch rain; and it may require more than 1 inch, depending upon the slope of the confined quarters and the condition of the feedlot surface. Most of the steer's solid waste stays in the lot and is hauled to agricultural land. Much of the liquid is lost through the atmosphere and the steer certainly does not take a bath, wash his clothes, or wash his dishes.

Following this setting of the scene, we should examine a few facts. According to the U.S. Department of Health, Education, and Welfare bulletin—"Manual of Septic-Tank Practice"—Public Health Service publication No. 526—reprinted 1969 on page No. 44—the following facts on human waste were found:

*Table 8—Estimated distribution of sewage flows in gallons per day per person*

[Gallons per day]

| | |
|---|---|
| Kitchen wastes | 10 |
| Toilet wastes | 25 |
| Showers, washbasins, etc | 25 |
| Laundry wastes | 15 |
| Total wastes | 75 |

We must keep in mind that this waste is derived from a one-family dwelling and does not include the waste given off from family members when they are not at home.

For comparison with animals, data has been obtained from research work at the Mead Field Laboratories of the University of Nebraska. The area of the State around Mead, Nebr., has an average rainfall of 30 inches per year. Actual runoff data shows that only about 10 inches—depending on frequency and volume—of this will leave the feedlot as runoff. Runoff of 10 inches per year would equal 10 acre-inches per year, or 271,524 gallons per year per acre. On the feedlot acre used in the test, there were 218 1,000-lb steers. The means that in the example there were 3.41 gallons of waste runoff per animal per day.

If we compare 3.41 gallons per steer per day to 75 gallons per human per day, we have a *pollution ratio* of 22 steers equal to 1 human being, which is vastly different from the ratio that is commonly quoted.

If we compare the animal waste to human waste using this new ratio, we find the 128,500 people in Lincoln, Nebr., for instance, would be equivalent to 2,827,000 head of cattle on feed, or nearly twice as many as the 1,581,000 head on feed in the entire State of Nebraska as of January 1, 1973.

Pollution is often stated in terms of BOD—biochemical oxygen demand. Using these terms, we find that 1 human being is equal to 10 steers as a pollution potential.

Again, using the work at the Mead Field Laboratories, 1 acre-inch of runoff from the feedlot contains 135.6 of BOD, or 10 inches of runoff amounts to 1,356 lbs of BOD per year for 218 head of cattle.

The daily figure would be 0.017 lbs of BOD per day per steer. Municipal sewage plants figure that they receive 0.17 lbs of BOD per capita per day, or ten times the amount for a steer.

Thus, it is easy to understand why the cattle feeder is disturbed when someone makes the statement that, in considering water pollution, 1 steer is the equivalent of 15 or 16 people. Such a statement is simply not true and, in fact, the ratio of steers to people is almost exactly reversed.

Referring again to the definition of point source contained in the Federal Water Pollution Control Act Amendment of 1972, we stress that it is unjustly discriminatory and grossly unrealistic to single out the concentrated animal feeding operation for inclusion in the definition.

It is equally frustrating to agricultural operators to operate under a statute which attempts to apply regulations and control procedures to agriculture when such regulations and controls are designed for business and industry. Again,

we emphasize that discharge from a feedlot occurs only from an act of nature, meaning rainfall, which cannot be treated in the same manner as discharge from manufacturing plants and other such operations which result from intended acts of the operators.

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By Mr. MUSKIE:

S. 1768. A bill to establish a Commission on Mental Health and Illness of the Elderly, and for other purposes. Referred to the Committee on Labor and Public Welfare.

COMMISSION ON MENTAL HEALTH AND ILLNESS OF THE ELDERLY ACT

Mr. MUSKIE. Mr. President, I introduce for appropriate reference the Commission on Mental Health and Illness of the Elderly Act.

For far too long, mental health has been the stepchild of the health care field. And this is especially so in the case of mental illness and the elderly. The bill I introduce today represents an important first step to help correct this situation.

Geriatric patients now occupy one of every five beds in our Nation's mental hospitals. And from 15 to 25 percent of elderly persons living in their own homes have some degree of mental impairment.

Yet our public policy is confused and contradictory when it comes to mental health of the elderly. Many elderly are "warehoused" in institutions when they could be returned to the community if proper services were available. Others are dumped into communities without adequate facilities and resources to assist them. Still others remain in their homes and apartments, cut off from the help they need.

The mental health problems of older Americans are made worse by misconceived negative attitudes. In a recent letter to me from Lee Muth, chairman, Representatives of State Mental Health Programs for the Aged, National Association of State Mental Health Program Directors, this point was forcefully stated:

> The mental and emotional well-being of the aged has been particularly neglected probably because "senility" is so often believed to be an inevitable and irreversible consequence of aging.

Too often there is a stereotype of the elderly mental patient who cannot be helped. As a result, the patient gets a cursory diagnosis, which is simply that treatment will not work.

Fortunately, there is solid evidence to dispel this myth. A November 1971 report of the Senate Special Committee on Aging, prepared at the direction of Senator CHURCH and myself, documents the fact that mental health problems of the elderly can often be substantially alleviated.

One survey of 49 psychiatric hospitals showed 75 percent of all elderly mental patients improved enough to go home within 2 months.

My bill provides the framework to make certain that this type of help would be more generally available. It would create a commission, appointed by the President, by and with the advice and consent of the Senate, which would formulate a unified national policy for the mental health of the elderly. The nine-member Commission would include at least one representative from the fields of psychiatry, psychology, social science, social work, and nursing.

This legislation provides for more than just another study. The main task of the Commission would be to develop a national policy in the field of mental health and the elderly. But it would also be charged with these duties:

Assessing future requirements for mental health facilities, manpower, research, and training to meet mental health care needs of the elderly;

Submitting an annual report to the President for transmittal to the Congress, describing major developments in the field of mental health and the elderly, identifying priority issues, and proposing recommendations for solving problems;

Evaluating present mental health programs to determine whether such programs are responsive to the needs of the elderly;

Developing priorities for programs designed to increase knowledge about various aspects of mental illness among older American; and

Cooperating with the executive and legislative branches to implement the policy proposals of the 1971 White House Conference on Aging.

The Commission established in this bill would be assisted by an Advisory Council on Mental Health and Illness of the Elderly, to be composed of nine members appointed by the President. This council would advise the Commission on policy matters relating to mental health and illness of the elderly.

Mr. President, as chairman of the Subcommittee on Health of the Elderly, I recently opened hearings on "Barriers to Health Care for Older Americans." Nowhere are barriers more apparent than in the area of mental health. The Commission that I propose in this bill would work toward tearing down these barriers.

This Nation can no longer afford to turn its back on the serious mental health problems of the elderly. My proposal gets us started on a national policy in this area and on solutions to these problems.

And I do not propose to keep this Commission in existence forever. Under my bill, the Commission would last for a period not to exceed 5 years and would terminate 60 days after the submission of its final report.

What we need is a concentrated attack on these problems and a strong commitment to their solution. My Commission would meet these objectives.

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

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

S. 1768

*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 "Commission on Mental Health and Illness of the Elderly Act".

ESTABLISHMENT OF COMMISSION

SEC. 2. There is hereby established a temporary commission to be known as the Commission on Mental Health and Illness of the Elderly (hereinafter called the "Commission"). Such Commission shall exist for a period not to exceed five years.

DUTIES OF THE COMMISSION

SEC. 3. It shall be the duty of the Commission to—

(1) develop a national policy for the proper maintenance of mental health for aged and aging persons and the care and treatment of mental illness for such persons;

(2) undertake studies to assess future needs for mental health facilities, manpower, research, and training to meet the mental health care needs of aged and aging persons;

(3) submit to the President for transmittal to Congress an annual report describing major developments concerning the treatment and care of elderly persons suffering from mental illness, identifying priority issues, and proposing recommendations for solving these problems;

(4) recognizing that proper physical health and proper mental health are inseparable, evaluate present mental health programs to determine whether such programs are responsive to the needs of aged and aging persons;

(5) develop priorities for programs designed to increase knowledge about various aspects of mental illness among aged and aging persons; and

(6) cooperate with the executive and legislative branches for the purpose of implementing the policy proposals recommended at the 1971 White House Conference on Aging.

ORGANIZATION OF THE COMMISSION

SEC. 4. (a) The Commission shall be composed of nine members to be appointed by the President, by and with the advice and consent of the Senate. The Commission shall include at least one member from each of the fields of psychology, psychiatry, social science, social work, and nursing. Each person so appointed shall, as a result of his training, experience, and attainment, be exceptionally qualified to formulate and appraise programs and activities related to aging.

(b) The President shall designate one of the members of the Commission to serve as Chairman and one to serve as Vice Chairman. Vacancies shall be filled in the same manner in which the original appointments were made. Any vacancy in the Commission shall not affect its powers, and five members of the Commission shall constitute a quorum.

POWERS OF THE COMMISSION

SEC. 5. To carry out the purposes of this Act, the Commission shall have the authority to—

(1) prescribe such rules and regulations as it deems necessary governing the manner of its operations and its organization personnel;

(2) obtain from any department, agency, or instrumentality of the United States, with the consent of the head thereof, such facilities, services, supplies, advice, and information as the Commission may determine to be required by it to carry out its duties;

(3) acquire by lease, loan, or gift, and to hold and dispose of by sale, lease, or loan, real and personal property of all kinds of necessary for, or resulting from, the exercise of authority under this Act;

(4) enter into contracts or other arrangements, or modifications thereof, with State and local governments, and institutions and individuals in the United States, to conduct programs the Commission deems necessary to carry out the purposes of this Act, and such contracts or other arrangements, or modifications thereof, may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes;

(5) make advance, progress, and other payments which the Commission deems nec-

essary under this Act without regard to the provisions of section 3648 of the Revised Statutes;

(6) receive money and other property donated, bequeathed, or devised to the Commission, without condition or restriction other than that it be used for the purposes of the Commission;

(7) accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(8) employ such officers and employees as may be necessary to carry out its functions under this Act; and

(9) obtain services of consultants in accordance with the provisions of section 3109 of title 5, United States Code, at rates for individuals not to exceed $100 per day for each day they are engaged in the performance of their duties to the Commission.

COMPENSATION OF COMMISSION MEMBERS

SEC. 6. (a) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(22) Chairman, Commission on Mental Health and Illness of the Elderly.".

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

"(95) Members, Commission on Mental Health and Illness of the Elderly (8).".

ADVISORY COUNCIL

SEC. 7. (a) There is hereby established an Advisory Council on Mental Health and Illness of the Elderly (hereinafter referred to as the "Council") to be composed of nine members appointed by the President for terms of two years without regard to the provisions of title 5, United States Code.

(b) The Council shall elect its own Chairman and Vice Chairman and shall meet at the call of the Chairman, but not less than four times a year. Members shall be appointed for two-year terms, except that of the members first appointed, five shall be appointed for a term of one year and four shall be appointed for a term of two years as designated by the President at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office. A vacancy in the Council shall not affect its activities, and five members thereof shall constitute a quorum.

(c) The Commission shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities.

FUNCTIONS OF THE COUNCIL

SEC. 8. The Council shall advise the Commissioner on policy matters relating to mental health and illness.

COMPENSATION OF COUNCIL MEMBERS

SEC. 9. Each member of the Council appointed pursuant to section 7 shall receive $50 a day, including traveltime, for each day he is engaged in the actual performance of his duties as a member of the Council. Each such member shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

TERMINATION

SEC. 10. The Commission shall cease to exist sixty days after the submission of its final report.

AUTHORIZING OF APPROPRIATIONS

SEC. 11. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

By Mr. HUMPHREY:

S. 1770. A bill to establish a National Domestic Development Bank to provide an alternative source of credit to State and local governments for the purpose of financing public and quasi-public facilities of all types, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

NATIONAL DOMESTIC DEVELOPMENT BANK ACT

Mr. HUMPHREY. Mr. President, I am today introducing the National Domestic Development Bank Act. This legislation will provide new capital resources for public development, particularly by local government.

The National Domestic Development Bank will help alleviate the problems and hardships caused by a fluctuating credit market. It will help assure that programs of broad social benefit get appropriate economic support.

This National Domestic Development Bank is needed in these days when the administration has cut back on aid to local governments; when it has conjured up visions of local decisionmaking while at the same time withholding the financial wherewithal to make such local decisions real and effective.

When I first introduced this legislation in 1971, the needs of our localities and cities in the area of public development were immense and growing every day. Today, the administration's impoundment of funds and cancellation of assistance programs has severely aggravated the problems which local governments must solve.

This country's mayors, who face day to day the problems of providing and financing community needs, have made an analysis of the disorder and deprivation which the Federal budget costs on the local governments in this country. The mayors found that the budget seeks to hold down the public sector at the expense of public needs. The budget contemplates virtual elimination of health facilities construction.

It ignores the basic needs for rehabilitation and modernization of existing facilities. By failing to seek funds for the Federal solid waste program, it thrusts full responsibility for management and recycling back upon local governments.

The budget is deliberately shortsighted—repeatedly from problem to problem cutting out funds for research and demonstration. Funds for all varieties of public development are proposed to be cut. There will be no assistance for public libraries; no funds will be available for housing; the Economic Development Administration is to be terminated; model cities will be terminated; urban renewal will be terminated.

All over the country we need new housing, new schools, new courts and correctional facilities, and better means of transportation. In addition, communities are now facing the challenge of undertaking better social planning and protecting the environment on their own without the encouragement of the national administration.

Local constituents are asking for prompt, effective action. The counties, cities, townships, and other governmental bodies are eager to tackle these challenges and improve the communities which they serve. But too often they come up against a stone wall when it comes to financing their undertakings.

We must enable State and local governments to carry out the projects they so urgently desire to begin. We need to broaden their base of resources so that they can use their initiative to solve problems. And we should do so in a manner which is economically efficient.

We must not allow a shortage of funds to prevent local governments and public bodies from financing needed projects in the areas of housing, environment, school and health care facilities, and transportation. Neither must we force them to pay exhorbitant interest costs.

The National Domestic Development Bank will offer long-term loans at low rates of interest. The bank's regional offices will provide planning and technical assistance because Federal retrenchment, if allowed to proceed, will deny them acess to the best technical know-how. Representatives of local governments and economic groups will participate in the operation of these regional offices.

The bank will also make loans available to nonprofit or quasi-governmental organizations which receive Federal funds and pursue public purposes in the construction of housing, medical, and other public facilities. In addition, the bank will provide loans to businesses in economically depressed areas for development purposes and to improve job opportunities.

With strong local initiative and Federal financial help we can take real strides toward solving the crisis of the cities and meeting the expanding needs of towns and rural communities. We can finance the public projects which will provide jobs and vital facilities for our people. We can improve the environment and the quality of life for all Americans.

Cities, townships, school districts and other governing bodies desperately need new health centers, sewage treatment facilities, recreational areas, fire departments, schools, day-care centers, water purification, and treatment plants.

Yet, these same municipalities are strapped to pay for modern facilities. Money has always been a problem. It was one when I was mayor of Minneapolis over 20 years ago. Today, the lack of finances has a new urgent quality: cities are fast approaching the fiscal breaking point.

In short, with high property taxes, income taxes, increased sales taxes, wage taxes, death taxes, outmoded methods of financing public construction, and soaring operating expenses, local governments are not about to undertake public facility projects which they simply cannot afford.

But, these local governments are confronted with the hard fact that they cannot afford not to build:

A lack of public development will mean fewer jobs.

It will mean drab and unstimulating school buildings.

It will mean inadequate medical and hospital centers.

It will mean poorer services in our communities.

It will mean a cutback in the investment of private resources.

And, it will mean a continuation of the urban and rural crisis.

There is a staggering backlog of public facility construction applications awaiting the commitment of Federal funds. This was documented in hearings on March 3 and 4, 1971, before the Housing and Urban Affairs Subcommittee of the Senate Committee on Banking, Housing and Urban Affairs.

The program backlog for urban renewal amounts to more than $2.75 billion for 900 projects. The unmet demand for water and sewer facility construction totals $2.5 billion. There is a $560 million backlog in public housing—with 474 localities calling for the construction of some 263,000 units—and an unmet request from our cities for $645 million for assisted lower- and moderate-income housing. The model cities program, which held such great promise, saw only 50 percent of initial applications and 30 percent of initial program budgets approved under the original Federal budget for fiscal 1971. Our States and cities have submitted some 103 new and 14 amendatory applications for capital grants and loans to improve their mass transit systems, with a total project cost estimated at over $7.1 billion, including a Federal share of more than $2.3 billion.

The administration has impounded funds appropriated by Congress for the current fiscal year to begin construction on 145 more public works projects—$91.7 million—across the Nation. This executive branch action has also focused national concern on unmet needs for school and college assistance, hospital construction and modernization, the building of additional court facilities and correctional institutions, rural conservation and pollution abatment projects, and nationwide highway and airport development programs.

To meet the public development demands of our Nation, we need a bold and imaginative way of mobilizing capital.

The United States is a leading partner in international banks assisting the development of other nations—the World Bank, the Asian Development Bank, and the Inter-American Development Bank, with authorized capital levels ranging from $1.1 billion to $27 billion.

Why cannot these established principles of international financing be applied in our own Nation? Why cannot this assistance given to other countries to develop public facilities and an economic base, also be extended to our own cities and towns faced with the decline of public services and the outmigration of business?

The National Domestic Development Bank Act proposes that we do, in fact, direct the same form of extensive financial assistance to our critical public development needs at home. It is based on long established principles of public financing. I need only cite the precedents of the Reconstruction Finance Corporation, the Federal Land Banks, the Banks for Cooperatives, the Federal Intermediate Credit Banks, the Rural Electric Bank, and the Rural Telephone Bank.

These institutions were created to bring in capital at a time and place when the need was critical. Their financial investment success in transforming despair into opportunity for millions of Americans enabled them to evolve as independent, quasi-public organizations. The same public demand, and the same institutional organization, govern the establishment of the National Domestic Development Bank.

The National Domestic Development Bank will be a national institution sponsored by the Federal Government. But it will emphasize decisionmaking at the local level where the problems are known first hand. Communities and regions will determine their own development priorities under a comprehensive plan.

The Presidentially appointed Board of Directors will be composed of Federal, State, county, and local officials as well as representatives of the general public.

The bank's lending activities will be carried out directly through regional operating divisions. Each region will have an advisory committee broadly representative of local governments, economic groups, and the public.

The bank I propose will have a primary capitalization of $3.5 billion. This initial capital will be raised mainly through public stock subscriptions, and dividend income will be partially exempt from the Federal income tax in order to provide an incentive for investors. The lending power of the bank will be multiplied by the issuance of bonds on the national investment market.

National Domestic Development Bank loans will be made for the following purposes:

First, cities, counties, and States will be able to borrow money for basic community facilities at rates comparable to municipal bonds.

Second, 40-year loans also will be available to nonprofit or quasi-governmental organizations receiving Federal funds and pursuing public purposes for the construction of housing, medical, and other public facilities.

Third, loans over a 20-year period will be made to business organizations for economic development purposes in specially designated areas.

While financial assistance is crucial, it is not enough. To achieve sound community and economic development, the bank will offer technical assistance in the planning of projects, the coordination of other funding sources, and the integration of current Federal programs with the overall development plans of the community.

And, finally, the National Domestic Development Bank will not just help build facilities; it will also act as a protector of the environment. Too often, public development is merely a way to produce concrete shells. This bank will have a broader responsibility. It will require that every project plan guarantees that the earth, water, and air will be preserved in their natural beauty and healthfulness.

But I believe the bank must also develop the technical and financing expertise that is essential in anticipating the environmental impact of a rapidly changing and expanding technology in the United States. In addition to community and economic development, there is a basic demand in this Nation for substantially increased energy resources and for greatly improved transportation facilities and systems. An escalating pollution hazard will be the natural consequence of intensive efforts to meet these basic needs, unless effective assistance is provided to communities and our various industrial sectors to meet the environmental protection standards that will be increasingly applied and enforced by Government.

It is important, at this point, to emphasize the basic philosophy and objectives of the financing of public development under this act.

The National Domestic Development Bank will provide an orderly, continuing source of capital funds for our financially beleaguered communities.

It will allow us to tackle local financial problems in a rational and comprehensive way by eliminating the stop-start history of public construction.

It will multiply the purchasing power of Federal, State, and local revenues by amassing long-term credit commitments for public construction.

It will expedite Federal financial aid and end the application backlog problems plaguing our cities and institutions.

It will facilitate economic development in areas of this Nation confronted with high unemployment.

It is a development program for all the communities of America.

It can mean industrial parks and more jobs.

It can mean good schools, libaries, and medical and hospital centers close to the people.

It can mean an end to the deterioration of our transportation systems and the extensive development of mass transit facilities.

It can mean better police and fire departments.

It can mean parklands and clean water and well-planned waste disposal and treatment facilities.

It can mean comprehensive day care and community service centers.

It can give our people new recreational areas and campsites.

It can provide expanded adult education, job training, and cultural enrichment opportunities.

It can help produce good lower and moderate-income housing, in planned open-space residential neighborhoods.

And it can make possible an overdue start on the renewal of business centers in our small towns and core cities.

The National Domestic Development Bank Act can launch a comprehensive attack upon urban and rural blight. It can trigger new private investment and provide jobs in a slumping economy.

The list of needed public development has no end.

We have neglected public development too long. And, we have succeeded in becoming a nation that is privately wealthy but publicly poor.

The time to redress that imbalance is now.

Revenue sharing can bring only partial relief to the fiscal crisis facing our State and local governments.

In 1968, the Bureau of the Budget estimated capital financing needs for public development would reach $528 billion over a 10-year period. With inflation and a rising public demand for improved services, it is now expected that this public facility construction cost estimate will more than double within a decade.

Money costs will be higher and so will the already high price of municipal bonds. It is time that we changed our antiquated methods of financing public construction to meet the mounting needs of our growing population.

The bill I am introducing today evolved from my work with mayors, county commissioners, and other local officials, when, as Vice President, I maintained a continuous and direct liaison with local governments in the channeling of Federal assistance to meet their immediate problems.

Based on this firsthand experience, it is my firm conviction that the cost of inaction, the cost of permitting the public needs of America to pile up unmet, is too great a price to pay.

The cost to the Federal Government in establishing the National Domestic Development Bank will be a small fraction of the development value the Bank can generate.

Let us begin now on our urgent domestic agenda.

Let us begin now to shape our future, to build an America that addresses both the physical needs of our people and the spirit of man as well.

Mr. President, I ask unanimous consent that the text of the National Domestic Development Bank Act of 1973, a section-by-section analysis, and a question and answer description of the act be printed at this point in the RECORD.

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

S. 1770

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "National Domestic Development Bank Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds and declares that—

(1) population increases and rising demands for a safe and prosperous life have created an unprecedented demand for (A) basic community facilities, such as streets, schools, hospitals, housing, water, sewer, waste disposal, and mass transit facilities, and parks and playgrounds, and (B) economic development in urban ghettos, disaster areas, and labor surplus areas, as well as in new towns and new cities;

(2) the existing institutional structure for providing funds—the municipal bond-Federal grant arrangement—cannot provide at reasonable cost the amounts necessary to satisfy these growing demands. The financial needs of our growing communities require the full mobilization of skills and resources in all levels of government, Federal, State, and local, as well as in the private sector; and

(3) the most effective use of funds can only be made when information and technical expertise regarding engineering requirements, financial and economic factors, Federal programs and funding levels, and comprehensive area problems and planning are readily available from a single source.

(b) The purpose of this Act is to establish a national domestic development bank system which will provide an alternative source of funds for community facilities and economic development, which will involve national investment markets and all groups of investors, and which will furnish information to coordinate Federal, State, and local programs with local problems and governments.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "bank" means the National Domestic Development Bank established by section 4;

(2) "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, or any agency or instrumentality thereof;

(3) "local government" means any county, municipality, or other political subdivision of a State, or any agency or instrumentality thereof, or any school or other special district created by or pursuant to State law; and

(4) "obligation" means any bond, note, debenture, or other instrument evidencing debt.

ESTABLISHMENT OF BANK

SEC. 4. (a) There is hereby created a body corporate to be known as the National Domestic Development Bank, which shall have succession until dissolved by Act of Congress. The bank, which shall not be an agency of the United States Government, shall maintain such offices as may be necessary or appropriate in the conduct of its business. For the purposes of jurisdiction and venue, the bank shall be deemed a citizen and resident of the District of Columbia.

(b) No individual, association, partnership, or corporation, except the bank, shall hereafter use the words "National Domestic Development Bank" as the name of a part thereof under which he does business.

GENERAL POWERS

SEC. 5. The bank shall have, in addition to the special authority conferred by section 8 of this Act, the power—

(1) to sue and be sued, and complain and defend, in its corporate name and through its own counsel;

(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal, by the board, such bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, have offices, and exercise the powers granted by this Act in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, and own, hold, improve, use, or otherwise deal in and with, any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the bank;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, and to require bonds for them and fix the penalty thereof; and

(9) to enter into contract, execute instruments, incur liabilities, and do all things which are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

BOARD OF DIRECTORS; MANAGEMENT

SEC. 6. (a) The bank shall have a board of directors which shall initially consist of fifteen members to be appointed by the President of the United States as follows:

(1) one member to be appointed from the Federal Reserve System;

(2) four members to be appointed from among the heads of departments and agencies in the executive branch of the Government;

(3) four members to be appointed from among those who represent the public generally, one of whom shall be appointed, by and with the advice and consent of the Senate to serve as president of the bank and chairman of the board of directors;

(4) two members who are Governors of States from among nominees of the National Governors Conference;

(5) two members who are elected officials of county governments from among nominees of the National Association of County Officials; and

(6) two members who are elected officials of city governments from among nominees of the National League of Cities.

(b) (1) Directors appointed under clauses (1), (2), and (3) of subsection (a) of this section shall serve at the pleasure of the President or until their successors have been appointed.

(2) One director initially appointed pursuant to each of clauses (4), (5), and (6) shall be designated by the President of the United States to serve until the first annual meeting of the stockholders, and one director appointed pursuant to each such clause shall be designated by the President of the United States to serve until the second annual meeting of the stockholders. Vacancies occurring pursuant to this paragraph at the time of each annual meeting shall be filled by election by the stockholders at such meeting from among nominees as provided in subsection (a) of this section. Directors elected pursuant to this subsection shall serve for terms of two years. The board may appoint a member to serve for any unexpired term of any such director.

(c) The board shall hold regular bimonthly meetings and shall hold other meetings at the call of the chairman. A majority of the board shall constitute a majority for the transaction of business. Any vacancy in the board shall not affect its powers or duties.

(d) Any director who is an officer or employee of the United States shall serve without additional compensation for his services as a director.

(e) The management of the bank shall be vested in the President of the bank, subject to such policies as the board of directors shall prescribe from time to time.

INITIAL EXPENSES

SEC. 7. In order to facilitate the formation of the bank, the Secretary of the Treasury is authorized to pay initial organizing and operating expenses. There is hereby authorized to be appropriated a sum not to exceed $500,000 for this purpose.

SPECIAL AUTHORITY

SEC. 8. (a) Subject to the provisions of this Act, the bank is authorized—

(1) to make commitments to purchase, and to purchase, service, and sell, on terms and conditions determined by the bank, any

obligation (or participation therein) of a State or local government issued wholly or partly to finance the construction of basic community facilities or public works of any type;

(2) to make or guarantee loans to State and local governments to finance the construction of basic community facilities and public works of all types (including loans to nonprofit or quasi-governmental organizations and entities to finance the construction of housing, medical facilities, and other facilities which are supported by Federal or State programs and are determined by the bank to have the attributes of public facilities); and

(3) to make loans for the purpose of facilitating economic development in geographical areas designated by the Council of Economic Advisers as being low income, depressed, or labor surplus areas, disaster areas, or areas in need of direct investment to further the national public interest or other special help to stimulate economic activities within those areas.

(b) The bank shall develop criteria to assure that projects assisted by it are not inconsistent with comprehensive planning for the development of the communities in which they will be located, or disruptive of Federal programs which authorize assistance for the development of the communities in which they will be located, or disruptive of Federal programs which authorize assistance for the development of like or similar categories of projects, or inconsistent with Federal policies directed at the protection of the environment.

(c) A loan made or guaranteed under this section may not exceed the total capital cost of the project to be financed, and shall be made for a term determined by the bank; except that the term of a loan made under paragraph (2) of subsection (a) shall not exceed the life of the project or forty years, whichever is less, and the term of a loan made under paragraph (3) of subsection (a) to a private person for a project consisting primarily of profitmaking facilities shall not exceed twenty years.

(d) All obligations purchased and loans made pursuant to this section shall bear interest at a rate determined by the bank which shall be low enough to be competitive with municipal bonds.

(e) In any case in which the bank undertakes to provide assistance to a State or local government under subsection (a) for the construction of a project for which a department or agency of the Federal Government (under another law of the United States) will also provide funds—

(1) the assistance provided by the bank under subsection (a) may be in the full amount needed by the State or local government to finance such construction (including the amount of the funds which will be provided by such department or agency), with the funds to be provided by such department or agency with respect to such construction thereupon becoming payable (notwithstanding any contrary provision in the law under which they are payable) to the bank in lieu of being paid directly to such government, and

(2) the bank may accept in return (A) an obligation or obligations of such State or local government covering only the difference between such full amount and the amount of the funds which are payable with respect to such construction by such department or agency, plus (B) a commitment from such department or agency to pay the funds which are to be provided by it and are payable to the bank as described in paragraph (1),

in order to insure that such State or local government will not have to include within its debt limit that portion of the indebtedness incurred for the financing of such construction which is attributable to funds provided by the Federal Government.

(f) The bank is authorized to establish a financial and technical advisory staff for any metropolitan area upon a determination by the board that the amount of the bank's activity in such area is sufficiently large to support a full financial and technical advisory staff. The staff shall process applications and requests for assistance from that area and shall assist applicants in obtaining such assistance.

(g) Except as otherwise specifically provided in this Act, the bank may impose charges or fees for its services with the objective that all costs and expenses of its operations should be within its income derived from such operations.

REGIONAL OPERATING DIVISIONS

SEC. 9. (a) The bank shall establish regional operating divisions. Each division shall be charged with responsibility for assessing borrower eligibility, and making loans within its region or geographical area. To the maximum extent feasible, the boundaries of the regions or geographical areas respectively represented by the several regional operating divisions shall be the same as the boundaries of the areas respectively served by the regional offices of the various Federal departments and agencies.

(b) Each regional operating division shall transact all of the bank's business within its region with the assistance of the metropolitan area advisory staffs.

(c) Each regional operating division shall be supervised by a three member panel appointed by the board. In addition, an advisory committee of not less than eighteen nor more than twenty-five persons representing all governments and all socioeconomic levels within the division's region shall be appointed by the board to develop policies and guidelines for the division's activities.

TECHNICAL ASSISTANCE

SEC. 10. (a) The bank shall have, in addition to a staff adequately equipped in the field of development banking, personnel qualified to give advice in the following fields (and any other categories of advice appropriately related to the bank's activities):

(1) The Federal Government, particularly its organization and operation relating to State and local governments.

(2) All phases of all Federal-grant-in-aid programs.

(3) Methods of administering the development and operation of community facilities.

(4) Technical data and requirements in fields appropriately related to the bank's activities, including the following:

(A) roads, hospitals, schools, and airports;

(B) urban mass transit systems and bridges;

(C) housing, municipal buildings, and parks.

(D) courthouses;

(E) water and sewage facilities and air pollution controls; and

(F) commercial developments.

(b) The bank shall give any necessary technical assistance under this section to applicants for assistance under section 8. No fees for preliminary advice shall be charged; however, after an application has been accepted for processing, the bank may charge reasonable fees for continued assistance under this subsection.

(c) The bank is also authorized to undertake research and information gathering, and to facilitate the exchange of advanced concepts and techniques relating to municipal growth and development among State and local governments.

STOCK

SEC. 11. (a) The bank shall have one class of common stock, which shall have voting rights and have a par value of $100 per share. Stock shall be sold to investors throughout the country.

(b) All moneys received by the bank in return for its common stock shall be accumulated in a stated capital account. All net earnings from the operations of the bank shall annually be transferred to its general surplus account. Such dividends as may be declared shall be paid by the bank to the holders of its common stock and shall be charged against the general surplus account, but in any one fiscal year dividends shall not exceed 6 per centum of the par value of the common stock issued and outstanding and shall be payable out of the net earnings of the bank for that year.

CAPITALIZATION OF THE BANK

SEC. 12. The bank's stated capital shall be limited to $3,500,000,000, which shall be raised, insofar as it is feasible, by the sale of the bank's common stock, and the remainder shall be provided as follows:

(1) The Secretary of the Treasury is authorized to purchase obligations of the bank in the amount of $300,000,000 a year for a period of ten years. If the Secretary finds it is necessary for the successful operation of the bank to waive the payment of interest and principal for any given year such interest shall then be added to the principal of the obligation. The bank is authorized to include appropriate provisions in the instruments evidencing the obligations provided for in this paragraph. Each purchase of obligations by the Secretary under this paragraph shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. The Secretary may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this paragraph.

(2) The Secretary of the Treasury is additionally authorized to purchase debentures of the bank in the amount of $300,000,000 on emergency call of the bank.

(3) Each public borrower from the bank at the time of receiving loans shall be required to purchase stock until it holds an amount of stock equivalent to $.50 per capita for each person within its jurisdiction or for each person expected to be served by the facility or facilities involved. The borrower shall purchase stock equal to one-twentieth of the amount of his loans until he reaches the $.50 per capita maximum requirement. For the purposes of paragraphs (1) and (2) of this section, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include such purchases. All redemptions, purchases, and sales of obligations or debentures under such paragraphs shall be treated as public debt transactions of the United States.

OBLIGATIONS OF THE BANK

SEC. 13. (a) The bank is authorized to issue and have outstanding obligations (including but not limited to the obligations and debentures described in section 12) having such maturities and bearing such rates of interest as may be determined by the bank. Such obligations may be redeemable at the option of the bank before maturity in such manner as may be stipulated therein. The amount of the bank's indebtedness outstanding at any one time shall be limited to fifty times the bank's paid-in stated capital.

(b) The Government National Mortgage Association (hereinafter referred to as the "Association") is authorized, upon such terms and conditions as it may deem appropriate, to guarantee the timely payment of principal of and interest on such obligations (other than obligations and debentures de-

scribed in section 12) as shall be issued by the bank. The Association shall collect from the bank a reasonable fee for any guaranty under this subsection and shall make such charges as it may determine to be reasonable for the analysis of any obligation proposed to be issued by the bank. In the event the bank is unable to make any payment of principal of or interest on any obligation guaranteed under this subsection, the Association shall make such payment as and when due in cash, and thereupon shall be subrogated fully to the rights satisfied by such payment. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guaranty under this subsection.

FEDERAL PAYMENTS TO THE BANK

SEC. 14.(a) With respect to such amounts of loans of the bank as may be specified in appropriation Acts, the Secretary of the Treasury is authorized to make and to contract to make, annual payments to the bank in such amounts as are necessary to equal the amount by which the dollar amount of interest paid by the bank on account of its outstanding obligations exceeds the dollar amount of interest received by the bank on account of obligations purchased or loans made by it pursuant to section 8.

(b) There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to carry out his functions under this Act, including such sums as may be necessary to make the annual payments required by contracts entered into by the Secretary of the Treasury pursuant to subsection (a) of this section.

FEDERAL INSURANCE OF OBLIGATIONS TO THE BANK

SEC. 15. (a) The Secretary of Housing and Urban Development (hereinafter in this section referred to as the "Secretary"), upon application by the bank, is authorized to insure any loan made by the bank under section 8(a) (including, for purposes of this section, any obligation purchased as provided in paragraph (1) thereof), and to issue a commitment for the insurance of any such loan prior to the date of its execution or disbursement thereon upon a determination that all of the applicable criteria established by or under this Act will be met with respect to such loan.

(b) The insurance of any loan under subsection (a) and any payments pursuant thereto shall be made on such terms and conditions, and in such manner and form, as the Secretary shall by regulations prescribe, and shall provide for the payment in full to the bank of the outstanding principal balance of the loan together with any unpaid interest, upon default by the borrower, in accordance with procedures set forth in such regulations.

(c) The Secretary is authorized to charge and collect premiums for insurance under this section. Such premiums shall be fixed at the lowest possible levels which are determined by the Secretary to be reasonable and sufficient to keep the insurance program under this section in a sound and secure condition and maintain the fund established by subsection (d) at a level adequate to meet all anticipated losses, but in any event shall be lower for loans made under paragraphs (1) and (2) of section 8(a) than for loans made under paragraph (3) of such section.

(d)(1) There is established a revolving fund to be used by the Secretary in carrying out his functions under this section. All premiums charged as provided in subsection (c), and all other receipts under the insurance program, shall be deposited in the fund. All payments with respect to insurance under this section shall be made from the fund. Moneys in the fund not needed for the payment of current operating expenses or the payment of insurance under the program may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States.

(2) There is authorized to be appropriated as initial capital for the revolving fund established by paragraph (1) the sum of $10,000,000.

(e) In the performance of, and with respect to, the functions, powers, and duties vested in him by this Act, the Secretary shall (in addition to any authority otherwise vested in him) have the functions, powers, and duties set forth in section 402 (except subsection (c)(2)) of the Housing Act of 1950.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 16. (a) The financial transactions of the bank shall be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers, things, or property belonging to or in use by the bank and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

(b) The expenses of any audit performed under this section shall be borne out of appropriations to the General Accounting Office, and appropriations in such sums as may be necessary for this purpose are authorized. The bank shall reimburse the General Accounting Office for the full cost of any such audit, and the General Accounting Office shall deposit sums received as reimbursed into the Treasury as miscellaneous receipts.

AUDIT REPORT TO CONGRESS

SEC. 17. A report of each such audit of the bank for any fiscal year shall be made by the Comptroller General to the President and to the Congress not later than six months following the close of such fiscal year. The report shall set forth the scope of any such audit and shall include a statement (showing intercorporate relations) of assets and liabilities; a statement of capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the Congress informed of the operations and financial condition of the bank, together with such recommendations with respect thereto as the Comptroller General may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the bank.

TAX EXEMPTION

SEC. 18. (a) The bank, its property, its franchise, capital reserves, surplus, security holdings, and other funds, and its income shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority: except that (1) any real property and tangible personal property of the bank shall be subject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed, and (2) any and all obligations issued by the bank shall be subjected both as to principal and interest to Federal, State, and local taxation to the same extent as the obligations of private corporations are taxed.

(b)(1) Subsection (a) of section 116 of the Internal Revenue Code of 1954 (relating to partial exclusion from gross income of dividends received by individuals) is amended to read as follows:

"(a) EXCLUSION FROM GROSS INCOME.—

"(1) DOMESTIC CORPORATIONS.—Gross income does not include amounts received by an individual as dividends from domestic corporations (other than the National Domestic Development Bank), to the extent that the dividends do not exceed $100.

"(2) NATIONAL DOMESTIC DEVELOPMENT BANK.—Gross income does not include 50 percent of the amounts received by an individual during any taxable years as dividends from the National Domestic Development Bank."

(2) Such section 116 is further amended by striking out "Subsection (a)" in subsection (b) and inserting in *lieu thereof* "Subsection (a)(1)".

NATURE OF STOCK AND OBLIGATIONS

SEC. 10. (a) All obligations issued by the bank shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the bank pursuant to this Act shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States.

(b) The Federal Reserve banks are authorized and directed to act as depositaries, custodians, and fiscal agents for the bank, for its own account or as fiduciary, and such banks shall be reimbursed for such services in such manner as may be agreed upon; and the bank may itself act in such capacities, for its own account or as fiduciary, and for the account of others.

PREPARATION OF OBLIGATIONS

SEC. 20. In order to furnish obligations for delivery by the bank, the Secretary of the Treasury is authorized to prepare such obligations in such form as the board may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the bank. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith, shall remain in the custody of the Secretary of the Treasury. The bank shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

UNITED STATES NOT LIABLE

SEC. 21. Except as otherwise specifically provided in this Act, the United States shall not be liable for any debts, defaults, acts, or omissions of the bank.

ANNUAL REPORT

SEC. 22. The bank shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress an annual report of its operations and activities.

AMENDMENTS RELATING TO FINANCIAL INSTITUTIONS

SEC. 23. (a) The sixth sentence of the seventh paragraph of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by inserting "or obligations of the National Domestic Development Bank," immediately after "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association".

(b) Section 5200 of the Revised Statutes (12 U.S.C. 84) is amended by adding at the end thereof the following new paragraph:

"(14) Obligations of the National Domestic Development Bank shall not be subject to any limitation based upon such capital stock and surplus."

(c) The first paragraph of section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended by inserting "or in obligations of the National Domestic Development Bank;" in the second proviso immediately after "any political subdivision thereof;".

(d) Paragraph (2) of section 14(b) of the Federal Reserve Act (12 U.S.C. 355) is amended by inserting ", or any obligation of the National Domestic Development Bank" immediately before the period at the end thereof.

SEPARABILITY

SEC. 24. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 25. There are authorized to be appropriated, without fiscal year limitation, such sums as may be necessary to carry out the purposes of this Act.

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SECTION-BY-SECTION SUMMARY—NATIONAL DOMESTIC DEVELOPMENT BANK ACT

Sec. 2: Sets forth the Findings of Congress which make this bill necessary; that there is an unprecedented demand for community facilities to provide for our growing population and that an alternative method for financing these facilities is imperative. It states that the purpose of the Act is to create a National Domestic Development Bank System.

Sec. 3: Contains definitions of terms used in the Act.

Sec. 4: Establishes the Bank as a body corporate and reserves the use of the name "National Domestic Development Bank".

Sec. 5: Grants the Bank the general powers of a corporation.

Sec. 6: Provides for an initial fifteen (15) member Board of Directors, to be appointed initially by the President, with the following composition.

1 representing Federal Reserve System

4 representing departments and agencies of the Federal government

4 representing the public generally (appointed by the President with advice and consent of the Senate)

2 State governors (nominated by the National Governors Conference)

2 elected officials of county government (nominated by the National Association of County Officials)

2 elected officials of city government (nominated by the National League of Cities)

Subsequently, the representatives of state and local governments will be elected from those nominated by stockholders of the Bank.

Sec. 7: Authorizes $500,000 for organizational and initial operating expenses.

Sec. 8: Outlines the special authority of the Bank:

(a)(1) To purchase obligations of state and local governments issued to finance community facilities or public works of any type

(2) To make or guarantee loans to

(a) State and local governments

(b) Nonprofit and quasi-governmental entities for financing projects supported by state or Federal programs or otherwise having the attributes of public facilities

(3) To make loans for economic development in areas designated by Council of Economic Advisers as needing government assistance.

(b) To reject any projects inconsistent with comprehensive planning for the communities being served.

(c) To loan money for up to forty (40) years for public facilities and twenty (20) years for economic development projects.

(d) To set interest rates competitive with rates on municipal bonds.

(e) To loan the entire cost of a project which is partly financed by a Federal assistance program, taking back obligations from both the local and the Federal government for their respective shares so that only the amount of the local share will be counted for its debt limit.

(f) To provide a financial and technical advisory staff for each active metropolitan region.

(g) To impose appropriate fees and charges.

Sec. 9: Provides that the Bank's lending activity will be carried out through regional operating divisions supervised by a three (3) member panel appointed by the Board of Directors. Each region will also have an advisory committee of 18 to 25 persons broadly representative of governments, and economic groups within the region.

Sec. 10: Authorizes assembly of a staff to give technical and economic advice including preliminary assistance with applications to the Bank and general advice during the construction period. In addition the Bank may undertake research and facilitate information exchange among Bank customers.

Sec. 11: Provides for one class of common, voting stock with a $100 par. Dividends in any one year may not exceed six per cent (6%) of the value of stock outstanding and must be paid out of net earnings.

Sec. 12: Capitalizes the Bank at $3.5 billion to be provided from the sale of common stock and, if necessary, by purchases by the Treasury Department of the Bank's obligations in yearly amounts of $300 million. Each public borrower must subscribe to purchase common stock in an amount equal to $.50 multiplied by the population within the jurisdiction, in increments of 1/20th of the face amount of a loan.

Sec. 13: Authorizes the Bank to sell bonds on the national market in an amount up to 50 times its stated capital to raise monies necessary to finance projects which are applied for by the users of the Bank. These bonds will be guaranteed by the Government National Mortgage Association and pledge the full faith and credit of the United States.

Sec. 14: Authorizes annual federal payments to the Bank in an amount sufficient to make up the difference between interest paid by the Bank on its obligations and the interest received from its loans to local governments.

Sec. 15: Provides for federal insurance of Bank loans, by the Department of Housing and Urban Development, and authorizes appropriations of $10 million to establish a revolving fund for this purpose.

Secs. 16 and 17: Provides for an annual audit by the General Accounting Office and a yearly report by the General Accounting Office to the Congress.

Sec. 18: Amends the Internal Revenue Code to exclude from gross income 50% of the amounts received as dividends by a stockholder during any taxable year.

Sec. 19: Makes the bonds of the Bank lawful investments.

Sec. 20: Authorizes the Secretary of the Treasury to prepare and print the Bank's bonds.

Sec. 21: Provides that the United States is not liable for debts, defaults or actions of the Bank other than those specified in the Act.

Sec. 22: Orders that an annual report be submitted to the President and the Congress.

Sec. 23: Contains technical amendments to Federal banking statutes.

Sec. 24: Provides that any invalid provision of this Act may be severed and that the remainder continues in full effect.

Sec. 25: Authorizes to be appropriated without fiscal year limits such funds as may be necessary to carry out the purpose of the Act.

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THE NATIONAL DOMESTIC DEVELOPMENT BANK ACT

1. What is the National Domestic Development Bank?

The National Domestic Development Bank is a national lending institution under the directorship of federal, state, and local officials, as well as representatives of the general public. The Bank will provide a new source of capital funds to enable cities and towns to undertake a wide range of public projects.

2. What will the Bank do?

It will make 40-year loans to State and local governments to finance the construction of basic community facilities and public works of all types. Loans can also be made to non-profit organizations for housing, medical, and other public facility construction.

The Bank is also authorized to make 20-year loans to business organizations for economic development in areas designated by the Council of Economic Advisers as being labor surplus, depressed, low income, or disaster areas, or areas in need of direct investment to further the national public interest.

3. Why is this Bank needed?

First, there is a limited market for state and municipal bonds. These bonds are one of the first types of securities to be affected by tight money periods. This was made very clear during 1969–70, when many municipal bond issues had to be cancelled because the market could not absorb them. The Bank will assure that municipalities will always have a market for their securities. It will provide communities with an alternative means of financing public development.

Second, the capital financing needs of our states and cities are growing at a rapid rate. In 1968, the Bureau of the Budget estimated a ten-year need of $58 billion.

At the same time, cities are fast approaching the fiscal breaking point. Cities need new ways of obtaining development money that do not sharply increase their public debt burden, putting an additional strain on limited revenues.

4. Won't the Bank complicate public development financing?

On the contrary, the Bank will create a more simplified, flexible, inexpensive, and efficient way to raise capital. It will provide a single source where cities and towns can obtain financial and technical assistance. It will coordinate aid under various federal programs with additional financing, cutting red tape and extended application review procedures.

5. Is this an agency of the Federal Government?

No, the Bank will not be an agency of the U.S. Government and its budget will be independent of the Federal budget.

6. How much will it cost?

The cost of the Bank will be very low. Start-up costs will be $500,000 for organizing expenses and $10 million to establish a revolving insurance fund at the Department of Housing and Urban Development to insure Bank loans. In addition, Congress will need to enact annual appropriations to make up the difference between interest rates paid by the Bank on its bond issues, and the interest rate it charges to borrowers. The net cost would be minimal, however, because the Treasury would collect taxes on the earnings of Bank bonds.

7. Will the Bank have unlimited bonding capacity?

No. It can only borrow on national investment markets for lending to state and local governments and other qualified users at fifty (50) times the amount of paid-in capital stock of this corporation. In addition, the

Bank must lend at rates competitive with municipal bonds.

8. Where does the Bank's capital reserve come from?

It comes from three sources:

(1) Sale of stock to the public. One investment incentive will be the exclusion from gross income of 50 percent of dividend earnings from this stock, for Federal income tax purposes.

(2) Sale of stock to public users of the Bank. Each user must buy a small amount of stock in increments as it obtains Bank loans, until it has purchased an amount of stock equal to 50 cents per capita.

(3) The Treasury is authorized to purchase special bonds up to $300 million per year for ten years, and this money can be used for capital reserve.

9. What assurances are provided investors?

First, all bonds sold by the National Domestic Development Bank will be guaranteed by the Government National Mortgage Association, and the full faith and credit of the United States is pledged to the payment of all amounts under this guaranty.

Second, all loans made by the Bank will be insured by the Federal Housing Administration, and a $10 million insurance revolving fund is established for this purpose.

10. What interest rates will be charged to the borrowers of this Bank?

Under this bill the Bank will set interest rates at a level that is competitive with municipal bond rates.

11. Will borrowers have to come to Washington to apply for loans?

No. The Bank's lending operations will be carried out directly through regional operating divisions, coinciding basically with the regional offices of the various Federal departments and agencies.

12. Will the Bank assist in any way other than providing loans?

Yes. One of the major services of the Bank is to maintain a technical staff that can give advice on Federal programs, on comprehensive planning and administration of the development of community facilities, and on technical data and requirements relating to the facilities eligible for financing. In addition, the Bank will do research, collect information, and facilitate the exchange of ideas on new technology and improvements in public administration relating to local and regional public development.

13. What projects will the Bank help finance?

A wide range of public facility construction is possible under this Act. Some examples are:

Schools and libraries
Medical centers and hospitals
Mass transit systems
Industrial parks
Police and fire departments
Water and sewer systems and waste disposal and treatment facilities
Parks and recreation areas
Community service and day care centers
Public housing
Job-training and adult education centers
The renewal of town and city business centers.

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By Mr. HARRY F. BYRD, JR. (for himself and Mr. HUGHES):

S. 1773. A bill to amend section 7305 of title 10, United States Code, relating to the sale of vessels stricken from the Naval Vessel Register. Referred to the Committee on Armed Services.

Mr. HARRY F. BYRD, JR. Mr. President, I send to the desk a bill and ask that it be received and appropriately referred.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. HARRY F. BYRD, JR. Mr. President, this proposed legislation is introduced by the Senator from Virginia and the distinguished Senator from Iowa (Mr. HUGHES).

I ask unanimous consent that the proposed legislation 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. 1773

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That subsection (1) of section 7305 of title 10, United States Code, is amended to read as follows:

"(1) Except as provided in subsection (a), no vessel of the Navy may be sold in any manner other than that provided by this section, or for less than its appraised value, unless the sale thereof is specifically authorized by law enacted after June 30, 1973."

SEC. 2. The amendment made by the first section of this Act shall not apply in the case of any Navy vessel with respect to which a written agreement to sale was entered into prior to June 30, 1973.

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By Mr. MAGNUSON (for himself Mr. COTTON, and Mr. INOUYE) (by request):

S. 1774. A bill to amend the Federal Trade Commission Act and the Export Trade Act as amended to deal with unfair competition in imports, to provide for clarification of law, for prior Federal Trade Commission clearance of export trade associations, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce for appropriate reference on behalf of myself, Mr. COTTON, and Mr. INOUYE, by request, a bill to amend the Federal Trade Commission Act and the Export Trade Act as amended to deal with unfair competition in imports, to provide for clarification of law for prior Federal Trade Commission clearance of export trade associations, and for other purposes. I ask unanimous consent that the bill and the accompanying section-by-section analysis be printed in the RECORD.

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

S. 1774

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

TITLE I—AMENDMENTS TO THE FEDERAL TRADE COMMISSION ACT

Section 6 of the Federal Trade Commission Act, as amended (15 U.S.C. 46) is amended by adding the following new paragraph, designated as (i):

"(i) in addition to the other powers conferred by this Act, to order that commodities be excluded from entry into the United States whenever it finds that unfair methods of competition or unfair acts are being employed in the importation of such commodities into the United States, or in their sale by the owner, importer, consignee, or agent of either, the effect or tendency or which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States, to restrain or monopolize trade and commerce in the United States, or to substantially impair competition within the United States. All orders of the Commission under this paragraph shall be submitted to the Secretary of the Treasury before publication thereof. No final order shall be issued by the Commission under this paragraph if the Secretary of the Treasury notifies the Commission within thirty days after transmittal of the proposed order to him that the exclusion from entry into the United States of the commodity in question would have or be likely to have a significant adverse effect upon the economic interest of the United States. Final orders of the Commission under this subparagraph (i) shall be issued, become final and be subject to review in the same manner as all other orders of the Commission under this act, and may be permanent or temporary, and subject to such conditions as the Commission may, in its discretion impose. The Commission, or the court having jurisdiction on appeal, may upon application or on its own motion provide for the posting of a bond in favor of the United States or such persons as the Commission or the court may designate, and stay the operation of final orders pending appeal. Upon notification to the Secretary of the Treasury of entry of a final order the Secretary shall, through the proper officers, refuse such entry, unless a stay of order has been granted under this section by the Commission or by a court having jurisdiction of an appeal from said order. No order shall be issued under this paragraph (i) with respect to any alleged unfair competition for which a remedy is provided by the Antidumping Act of 1916 (15 U.S.C. 72), the Antidumping Act, 1921, as amended (19 U.S.C. 160–171), section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), or section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337)."

TITLE II—AMENDMENTS TO THE EXPORT TRADE ACT

The Export Trade Act (40 Stat. 516–17; 15 U.S.C. 61–65), is amended to read:

"SECTION 1. The words 'export trade' wherever used in this Act mean solely trade or commerce in goods, wares, merchandise, architectural services, engineering services, construction services, training services, financing services or project or general management services exported, or in the course of being exported from the United States or any territory thereof to any foreign nation; but the words 'export trade' shall not be deemed to include (i) the production, manufacture, or selling for consumption or for resale, within the United States or any territory thereof, of such goods, wares, merchandise or services, or any act in the course of such production, manufacture or selling for consumption or for resale or (ii) trade or commerce in patents, licenses, trade secrets or knowhow except such knowhow as is incidental to the sale of such goods, wares, merchandise or services.

"The words 'trade within the United States' wherever used in sections 1–5 of this title mean trade or commerce among the several States or in any territory of the United States, or in the District of Columbia, or between any such territory and another, or between any such territory or territories and any State or States or the District of Columbia, or between the District of Columbia and any State or States.

"The word 'association' wherever used in sections 1–5 of this title means any corporation or combination, by contract or otherwise, of two or more persons, partnerships, or corporations, who are citizens of, which are created and existing under the laws of the United States or any States thereof.

"Sec. 2. The export trade operations conducted by or through any association registered pursuant to section 3 of this Act and

the organization of such association (including without limitation, the acquisition or ownership by any corporation of the whole or any part of the stock or other capital of the association) each substantially in conformance with an effective registration statement filed by the association with the Federal Trade Commission (hereinafter the 'Commission') in accordance with this Act (subject to any terms and conditions imposed by the Commission) shall not be subject to any of the provisions of the Antitrust Laws. For the purposes of this Act, the Antitrust Laws are those laws defined as such in sections 12 and 44, title 15, United States Code; the Federal Trade Commission Act, sections 41–58, title 15, United States Code; any other laws of the United States *in pari materia* including state laws on antitrust and unfair methods of competition; and all amendments to the foregoing.

"Associations registered with the Commission prior to the date of enactment of this Act may file a registration statement as provided herein within 90 days of enactment hereof. With respect to associations which elect to file within 90 days, the immunity conferred to such associations prior to enactment of this Act shall continue and not be enlarged or diminished until such time as the Commission makes its determination under section 3 thereof. Thereafter, immunity of such organizations shall extend as prescribed herein, unless the Commission determines that no registration should be permitted, in which case as of the date of that decision any immunity for future conduct shall cease. As to those associations which do not elect to register hereunder, immunity conferred prior to enactment of this Act shall cease 90 days after enactment hereof.

"Sec. 3. (a) Any association seeking the protection of section 2 of this Act may apply for registration by filing with the Federal Trade Commission a registration application in the form the Commission shall prescribe, setting forth the information and accompanied by the documents specified below:

"(i) copies of its certificate of incorporation, constitution, by-laws, rules, or agreements relating to the organization and operation of the association, in each instance with all amendments thereto;

"(ii) location of its offices and places of business;

"(iii) names and addresses of all officers and directors of the association or persons holding corresponding positions;

"(iv) names and addresses of all persons, partnerships or corporations who are members of the association;

"(v) description of the export trade conducted or proposed to be conducted by or through the association;

"(vi) methods by which the export trade is conducted or proposed to be conducted, including, without limitation, any agreements to sell exclusively to or through the association, any agreements with foreign persons who may act as joint selling agents, any agreements to acquire a foreign selling agent, any agreement for pooling tangible or intangible property or resourecs, or any territorial, price maintenance, or other restrictions to be included in sales, or other agreements;

"(vii) names of all countries where export trade is conducted or proposed to be conducted by or through the association;

"(viii) information to support a registration under paragraph (c) of this section and

"(ix) any other information which the Commission may require concerning the organization, operation, management, or finances of the association, the relation of the association to other associations and to the export trade being or proposed to be conducted; and competition or potential competition or potential competition, and effects of the asociation thereon.

Any amendment to the registration of a registered association shall be applied for and approved in the same manner as a registration application filed under this section.

"(b) Upon receipt of a registration application, the Federal Trade Commission shall immediately deliver copies of such application to the Attorney General. The Attorney General may request that the Commission provide additional information or that the Commission request the association to provide additional information. Within ninety days after the date of delivery of copies of the application to him, the Attorney General shall submit to the Commission a report on the effect which the export trade to be conducted by or through the association would likely have on competition in the United States, or upon exports by domestic nonmembers. The Commission may also request opinions on any application from other Federal departments and agencies.

"(c) After receiving the report of the Attorney General, the Federal Trade Commission shall register the association for such period of time and subject to such terms and conditions as it deems appropriate if the Commission finds that the organization and operation of the association in conformance with its registration statement is not likely to result in substantially lessening competition, or restraining the domestic or import trade of the United States, or substantially restraining exports by domestic nonmembers.

"(d) Whenever a material change occurs in the facts disclosed to the Commission by a registered export group, under section 4, such group shall within thirty days thereafter report such material change to the Commission with any documents or information relevant thereto.

"(e) The Commission may by regulation require a registered export group to submit such periodic reports as it may deem necessary to carry out its responsibilities under this Act.

"Sec. 4. (a) The Federal Trade Commission shall have exclusive jurisdiction to determine whether any material act, practice or course of conduct by a registered association in connection with export trade is not in conformance with its registration statement in which case the Commission may, on its own initiative or upon motion of the Attorney General or any interested person, in its discretion (i) require that the registration statement be amended, (ii) require that the organization or operation of the association be modified, (iii) revoke, in whole or in part, the registration of the association and/or (iv) recommend to the Justice Department prosecution of the appropriate persons, partnerships or corporations or of the association under the Antitrust Laws. Neither the Justice Department nor any other agency or department of the Government may bring suit under any of the Antitrust Laws, against any registered association or against any person, partnership or corporation, based upon the organization or export trade operations of any registered association unless a recommendation that such a suit be brought has been made by the Commission pursuant to this paragraph.

"(b) The Federal Trade Commission shall have exclusive jurisdiction to determine whether any material act, practice, or course of conduct by a registered association in connection with export trade, although in conformance with the registration statement of the association, is or has become inconsistent with the standards set forth in section 3, in which case the Commission may, in its discretion (i) require that the organization or operation of the association be modified or (ii) revoke, in whole or in part, the registration of the association.

"(c) The Federal Trade Commission shall not have exclusive or primary jurisdiction as to conduct by a registered association or its members which is not in conformity with the registration statement of the association and which has as one of its purposes or as its primary effect a substantial lessening of competition or restraining the domestic or import trade of the United States, or substantially restraining exports by domestic nonmembers.

"Sec. 5. (a) The Federal Trade Commission shall promulgate such rules and regulations as may be necessary to carry out the purposes of this Act.

"(b) This Act shall terminate and cease to be in effect as of midnight on December 31, 1978 unless extended prior thereto by act of Congress; *provided*, however, that the termination of this Act shall in no way diminish or terminate immunities granted hereby under the Antitrust Laws with respect to the organization or operation prior to the termination of this Act of any registered association."

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SECTION-BY-SECTION ANALYSIS

TITLE I. AMENDMENTS TO SECTION 6 OF THE FEDERAL TRADE COMMISSION ACT

This Title would amend Section 6 of the Federal Trade Commsision Act, 15 U.S.C. 46, as amended, to authorize the Federal Trade Commission to issue an order that commodities be excluded from entry whenever the Commission finds that unfair methods of competition or unfair acts are being employed in the importation of such commodities in the United States or in their sale by the owner, importer, consignee, or agent of either, where the effect or tendency of such conduct is to destroy or substantially injure an industry, efficiently and economically operated, in the United States, or is to restrain or monopolize trade and commerce in the United States, or is to substantially impair competition within the United States.

The principal thrust of this amendment would be to transfer from the Tariff Commission to the Federal Trade Commission the responsibility for proceedings now governed by Section 337 of the Tariff Act, 19 U.S.C. 1337 (other than in cases involving infringement of patents). This amendment would also broaden the operative language of existing 337 in that unfair methods of competition or unfair acts which "restrain or monopolize trade and commerce in the United States," or "substantially impair competition within the United States," could be challenged under the new provision. Alternatively, the Federal Trade Commission, like the Tariff Commission at present, could also challenge unfair methods of competition and unfair acts if "the effect or tendency . . . is to destroy or substantially injure an industry, efficiently and economically operated, in the United States."

The amendment provides that before a Commission order that articles be excluded becomes final or is published, the Secretary of the Treasury may take into account whether the exclusion of the commodity in question would have or be likely to have a significant adverse effect upon the economic interest of the United States. If the Secretary so determines, he must so notify the Commission within thirty days of the transmittal of the order to Treasury. If the Secretary does not notify the Commission within 30 days, the order shall become final.

Orders of the Federal Trade Commission under this Title would be issued, become final and be subject to review in the same manner as all orders of the Commission under the Federal Trade Commission Act. Commission orders may be permanent or temporary, and subject to such conditions as the Commission may, in its discretion, impose.

The Commission, or the court having jurisdiction on appeal, may upon application or on its own motion provide for the posting of a bond in favor of the United States or such persons as the Commission or the court may designate, and stay the operation of final orders pending appeal. Upon notification by the Commission to the Secretary of the Treasury of the entry of a final order, the Secretary shall, through the proper officers, refuse such entry, unless a stay of the order has been granted under this section by the Commission or by a court having jurisdiction of an appeal from the order.

The amendment provides that no order shall be issued under this Title with respect to any alleged unfair competition for which a remedy is provided by the Antidumping Act of 1916 (15 U.S.C. 72), the Antidumping Act, 1921, as amended (19 U.S.C. 160–171), Section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), or Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337).

TITLE II. AMENDMENTS TO EXPORT TRADE ACT

*Section 1*

The amendment would make clear the inclusion of architectural, engineering, training, financing and project or general management services within the meaning of "export trade" to be conducted by or through a trade association and subject to immunity from the antitrust laws. The amendment also makes clear that intangible trade in patents, licenses, trade secrets or knowhow are not covered, except such knowhow as is incidental to goods, wares, merchandise or services enumerated in the Act, as amended. Incidental knowhow is that which is, in the ordinary course of business, sold to a customer so that the goods or services may have commercial value and may be effectively employed by the purchaser.

The amendment also provides that foreign persons or firms may not be members of an association registered under this Act.

*Section 2*

The amendment would extend immunity only to those who affirmatively seek its benefits by filing a registration statement pursuant to the new pre-clearance procedure in Section 3. Transitionary provisions also permit existing associations which elect to register to retain immunity under prior provisions pending Commission decision under this Act. Those associations which do not elect to register within 90 days will no longer be accorded immunity after 90 days of enactment of this Act.

In addition, by virtue of prior Commission review and clearance, this section would confer a much more specific immunity than under the present law, which gives immunity to acts or agreements which are not in restraint of trade within the United States, are not in restraint of the export trade of any domestic competitor, do not artifically or intentionally enhance or depress prices within the United States, and do not substantially lessen competition within the United States or otherwise restrain trade therein (40 Stat. 517, 15 U.S.C. 62). As amended, this section would exempt from the antitrust laws, including state laws on antitrust and unfair methods of competition, the *export trade* conducted by or through an association and the organization of that association, if "substantially in conformance with an effective registration statement" filed with the Federal Trade Commisison in accordance with the Act. Immunity under this Section is not conferred, however, to an association which engages in conduct not in conformity with its registration statement and which has as one of its purposes or its primary effect a substantial lessening of competition or restraining the domestic or import trade of the United States or substantially restraining exports by non-members.

*Section 3*

Section 3 provides that detailed information must be supplied in the registration statement to be filed with the Commission, concerning the organization of the association, its location, offices and members; a description of the export trade conducted or proposed to be conducted; methods by which the export trade is to be conducted and any agreements with domestic or foreign entities concerning that trade; names of all countries where export trade is to be conducted; information concerning the impact of the association or trade within the United States or on exports by domestic non-members; and the like.

These reporting requirements are a part of the proposed significant change in the Act which would condition the immunity of the Act on prior clearance and continuing approval by the Federal Trade Commission. Section 2(b) requires that after receipt of a registration application the Commission shall immediately deliver the application to the Attorney General. Within 90 days after delivery, the Attorney General shall submit a report "on the effect which the export trade to be conducted by or through the association would likely have on competition in the United States, or upon exports by domestic non-members." The Commission may also request the views of other federal departments and agencies on any application.

After receiving the report of the Attorney General, the Commission shall decide whether to register the agreement, and if so, for what period and on what terms and conditions. Before an association can be registered, the Commission must find "that the organization of the association in conformance with its registration statement is not likely to result in substantially lessening competition or restraining the domestic or import trade of the United States, or substantially restraining exports by domestic non-members."

A registered group is required to report any material changes in the facts disclosed to the Commission within 30 days, and the Commission is authorized to require the submission of periodic reports.

*Section 4*

This section would give the Federal Trade Commission exclusive authority to determine, on its own initiative or upon motion of the Attorney General or any interested person, whether any action by a registered group in connection with export trade is not in conformance with its registration statement. If such is the case, the Commission may (i) require that the statement be amended, (ii) require that the association modify its organization or practices, (iii) revoke the registration in whole or in part, and/or (iv) recommend prosecution under the antitrust laws to the Department of Justice. Subject to subsection (c), such a recommendation is necessary before the Department of Justice or any other government department or agency may sue such an association in connection with the export trade under the antitrust laws.

Under subsection (b), the Commission would also be given exclusive authority to determine whether any action of a registered association in export trade, although in conformance with the registration statement, is or has become inconsistent with the standards set forth in Section 3 of this Act, in which case it can require modification or can revoke the registration.

As set forth in subsection (c), the Commission would not, however, have exclusive or primary jurisdiction as to conduct by a registered association or its members which is not in conformity with the registration statement of the association and which has as one of its purposes or as its primary effect a substantial lessening of competition or restraining the domestic or import trade of the United States, or substantially restraining exports by domestic non-members.

*Section 5*

The Commission would be authorized to issue such rules and regulations as may be necessary to effectuate the Act. The Act shall terminate on December 31, 1978, unless extended prior thereto by act of Congress, but its termination shall in no way diminish or affect antitrust immunity concerning the organization and operation of any registered association prior to termination.

Mr. MAGNUSON. Mr. President, I am sure that the distinguished occupant of the Chair (Mr. BENNETT) will be interested in what I am about to say. This is the so-called administration trade bill. Other bills are pending—two or three other major bills—dealing with the same subject.

A part of the bill would go to the deal with tariffs, and other parts of the bill would be referred to the Committee on Commerce. But I do not think we will have trouble working out that arrangement.

I agree with much that is in the administration's bill. As to some parts of it, I do not know whether I will be in agreement, or whether the committee will; but it is obvious to me that we have got to have a trade bill, and we ought to have a get-together to see to it that a trade bill is passed in this session of Congress.

The way things are now, many of our business people who are thinking of the potentials of export, which we need, do not quite know where they stand. Some of the rules are changed; others require change. Actually we have never had a real, actual trade policy.

Other bills are pending in the Senate dealing with a great deal of tariff protection. They go from one extreme to the other; and I suppose we shall be confronted with another extreme proposal for completely free trade, with no restrictions whatsoever. We have got to sit down and get a trade bill that is somewhere in between, so that everybody will know where he is. We must have a national trade policy. Our objectives are the same: to see if we cannot do something about this problem and do something about the almost frightening balance-of-trade deficits.

That includes many other things that are involved in that, but here is a proposal that, in many respects is very good, and I hope we can all work together and see that we have a trade bill. I think it is necessary to the economy of the United States, to the solution of our world problems, and to maintain a balance.

I hope that these bills will let other countries know that we are still going to be tough traders, but in the old Yankee tradition, we can meet it, and that we are not going to be patsies in this trade matter, which I think we have been in most of the GATT meetings, after looking back on them. This will establish that once and for all.

So I am glad to introduce the admin-

istration bill, and I am sure that the distinguished present occupant of the chair (Mr. BENNETT) and the other members of the Finance Committee, while they have a lot of work to do, and we have, too, will give this very important matter the attention it deserves.

## ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 136

At the request of Mr. SCHWEIKER, the Senator from Kentucky (Mr. COOK), the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Tennessee (Mr. BROCK) were added as cosponsors of S. 136, a bill to authorize financial assistance for opportunities industrialization centers.

S. 1402

At the request of Mr. HARTKE, the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of S. 1402, the National Blood Bank Act.

S. 1599

At the request of Mr. SAXBE, the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from Kansas (Mr. DOLE), the Senator from Montana (Mr. METCALF), the Senator from Nevada (Mr. BIBLE), and the Senator from California (Mr. CRANSTON) were added as cosponsors of S. 1599, to provide for continued sale of gasoline to independent gasoline retailers.

SENATE JOINT RESOLUTION 86

At the request of Mr. BEALL, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of Senate Joint Resolution 86, a resolution to suspend for 2 years Federal support of projects involving psychosurgery.

## SENATE RESOLUTION 110—SUBMISSION OF A RESOLUTION RELATING TO A STUDY OF THE TREATMENT OF OUR PRISONERS OF WAR IN INDOCHINA

(Referred to the Committee on Armed Services.)

Mr. TOWER. Mr. President, on behalf of myself and the Senator from Arizona (Mr. FANNIN), I am today submitting a Senate resolution to authorize the Committee on Armed Services to conduct a study of the treatment of our POW's in Indochina. I do so because I am deeply concerned that the full story of their captivity will not otherwise become a matter of public record, and I feel it should be. Only when the public is apprised of the gruesome treatment of our men in Indochina will the American people fully appreciate their ordeal—their bravery.

I feel it equally important that the world be informed of the hypocrisy with which the North Vietnamese treated the prisoner of war question. Many of us are aware of the "Hanoi Hilton" tours conducted for the benefit of foreign visitors. But was this camp typical of those in North Vietnam? Was the condition of the prisoners in this camp typical as well? I do not believe we have at present an accurate idea of what prison life was like in North Vietnam or in other Communist prison camps. We have been given staged pictures and staged events. Behind these, however, lie the beatings, the pain, the anguish inflicted by a cruel and barbarous captor who portrays himself as a liberator from a nation of peace-and-freedom-loving people.

Mr. President, I had hoped to avoid rhetoric for I wish only to seek and expose the truth concerning the treatment of our men in Communist prison camps. But having already heard some of the stories brought back by our men, I cannot help but become incensed. I believe the public will share that feeling when the full story of the American POW is known.

The investigation authorized in this bill is not directly for the aid of our prisoners of war. Their ordeal is over—they have come home. Rather, their experience will help us prepare future servicemen should war be again forced upon us. It will be a valuable aid to the Senate in the preparation of legislation relating to prisoners of war.

Furthermore, I believe it is important that we also look into the effect visits by Americans and other non-North Vietnamese may have had on the treatment of the prisoners of war.

For these reasons, I ask the Senate to consider this resolution, and urge my colleagues to join me in urging its favorable consideration.

The resolution reads as follows:

S. RES. 110

*Resolved*, the Committee on Armed Services is authorized and directed to conduct an investigation and study relative to the treatment by representatives of North Vietnam and the Viet Cong of American military and civilian personnel held in confinement during the Vietnam conflict in Southeast Asia, including:

1. the extent to which representatives of North Vietnam and the Viet Cong violated the terms and provisions of the Geneva Convention on the Treatment of Prisoners of War,

2. the effect of visits by Americans and other non-North Vietnamese on the treatment of American prisoners of war,

3. the effect of prior survival and other training on the stamina and will to resist of American prisoners of war,

4. and any other relevant subject matter directly or indirectly related to the confinement of American military and civilian prisoners of war.

And the Committee on Armed Services shall, following the submission to the Senate of such interim reports as it considers appropriate, make a final report of the results of the investigation and study conducted by it pursuant to this resolution, and shall determine whether its investigation and study indicate the necessity or desirability of the enactment of new congressional legislation.

## SENATE RESOLUTION 111—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO LAURA M. MILLER

(Placed on the calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following resolution:

S. RES. 111

*Resolved*, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Laura M. Miller, widow of William J. Miller, an employee of the Senate at the time of his death, a sum equal to seven months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

## SENATE RESOLUTION 112—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO MARY L. HUNT AND JAMES A. HOLLOWAY

(Placed on the calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following resolution:

S. RES. 112

*Resolved*, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Mary L. Hunt, daughter, and James A. Holloway, son of Delia Holloway, an employee of the Senate at the time of her death, a sum to each equal to one-half of eight and one-half months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

## SENATE RESOLUTION 113—SUBMISSION OF A RESOLUTION TO ESTABLISH A TEMPORARY SELECT COMMITTEE TO STUDY THE SENATE COMMITTEE SYSTEM

(Referred to the Committee on Rules and Administration.)

Mr. STEVENSON. Mr. President, earlier this year the majority leader appointed a Committee of the Conference on the Improvement of Senate Practices and Procedures. The committee has held a series of meetings and discussions in which an extensive list of proposals for strengthening the Senate were considered.

The committee has concluded that the efforts to strengthen the Senate already in progress should be supplemented by an examination of the Senate committee system and that such an examination should be conducted during the 93d Congress by a temporary select committee.

To implement our recommendations, we now introduce a resolution calling for the establishment of a committee composed of seven members, four from the majority party and three from the minority party, with a budget of $900,000. The committee is to submit a report by June 1, 1974. Unlike its House counterpart, the Senate select committee would not have the power to report out legislation.

The post-World War II years have seen an explosion of Federal activity in housing, education, control of the economy, health care financing, environmental protection, manpower training, job safety, consumer protection, revenue sharing, and many other areas. The pace of change is increasing; the issues considered by the Congress grow ever more complex and intractable. Whether all of this new wine is best poured from the old bottles of the congressional commit-

tee system is a question which ought to receive thorough and immediate consideration.

Although we have concluded that it is the question of Senate committee jurisdictions that most needs examination, we believe that the ultimate purpose of the select committee—strengthening the Senate committee system—can be achieved only if the select committee has a mandate to study all aspects of the committee system. The resolution contains such a mandate. In addition to Senate committee jurisdictions, it covers number, optimum size, and structure of Senate committees; the number of subcommittees; committee rules and procedures; media coverage of meetings; staffing; space; equipment; and other committee facilities. While the Legislative Reorganization Act of 1970 addressed all of the above areas and brought about major progress in most of them, there is strong and widespread interest within the Senate in the consideration of proposals—especially in the area of staffing—building upon the accomplishments of the 1970 act. We believe that such proposals merit the serious attention they promise to receive by the temporary select committee.

The last major realinement of Senate committee jurisdictions occurred a generation ago, when the Legislative Reorganization Act of 1946 reduced the number of standing Senate committees from 33 to 15. In the intervening years, the number of standing Senate committees has remained almost constant—increasing from 15 to 17—but the number of subcommittees of standing Senate committees has increased from 34 to over 120 in the same period.

Congressional bodies have seriously examined the question of Senate committee jurisdictions on only two occasions since 1946. In 1951, the Senate Committee on Government Operations heard testimony on the subject from a number of witnesses, but the committee made no recommendations and no action was taken. In 1966, the Joint Committee on the Organization of the Congress devoted 2,000 words to the subject in its lengthy final report (Rept. No. 1414, 89th Cong. 2d sess., July 28, 1966, pages 14–18). The joint committee made four recommendations concerning Senate committee jurisdictions. Two have been adopted—creation of a Veterans' Affairs Committee and changing the name of Banking and Currency to Banking, Housing and Urban Affairs; two have not—creation of a new Committee on Education and expansion of the jurisdiction of Aeronautical and Space Sciences to include the National Science Foundation, the Bureau of Standards, and environmental research. That is all; and, given the enormous changes which the Nation and its Government have undergone since 1946, it is not enough.

Earlier this year, the House established a temporary select committee to study the jurisdictions of its standing committees and related matters. Historically the committee jurisdictions of the two Houses have closely corresponded to one another. If the Senate fails to take action and the House study results in major changes in its committee jurisdictions, the net result could be to reduce the effectiveness of the Congress, rather than to strengthen it.

Although we have no preconceived notions about the desirability of specific realinements in committee jurisdictions, we believe there is widespread agreement within the Senate that a review is needed. The result will presumably be:

Optimum utilization of Senators' time, including more even distribution of committee workloads and minimization of jurisdictional overlaps and other forms of duplicated effort.

Optimum effectiveness of committees in the creation and oversight of Federal programs, including maximization of the extent to which areas within one committee's jurisdiction are related to one another, and maximization of the extent to which major national issues can be considered comprehensively by Senate committees.

Clear, consistent procedures for the referral of legislation falling within the jurisdiction of two or more committees.

A workable mechanism for regular review and revision of committee jurisdictions.

We recognize the difficult and delicate nature of this enterprise, an enterprise which directly affects the interests of every Senator. For the reasons enumerated above, we believe that consideration of the issue by a temporary select committee during th 93d Congress is in the best interest of the Senate.

I ask unanimous consent that the text of the resolution be printed at this point in the RECORD.

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

By Mr. STEVENSON (for himself, Mr. HATHAWAY, Mr. INOUYE, and Mr. METCALF):

S. RES. 113

*Resolved*, That (a) there is established a temporary select committee of the Senate to conduct a study of the Senate committee system.

(b) The select committee shall be composed of 7 members of the Senate, 4 from the majority party and 3 from the minority party, to be appointed by the President of the Senate.

(c) The select committee shall select a chairman from among its members.

(d) A majority of the members of the committee shall constitute a quorum thereof for the transaction of business, except that the select committee may fix a lesser number as a quorum for the purpose of taking testimony. The select committee may adopt rules of procedures not inconsistent with this Resolution and rules of the Senate governing standing committees of the Senate.

(e) Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee.

SEC. 2. It shall be the function of the select committee to conduct a thorough study of the Senate committee system, the structure, jurisdiction, number and optimum size of Senate committees, the number of subcommittees, committee rules and procedures, media coverage of meetings, staffing, space, equipment, and other committee facilities, and to make recommendations which promote optimum utilization of Senators' time, optimum effectiveness of committees in the creation and oversight of federal programs, clear and consistent procedures for the referral of legislation falling within the jurisdiction of two or more committees, and workable methods for the regular review and revision of committee jurisdictions.

SEC. 3. (a) For the purposes of this Resolution, the select committee is authorized in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) to hold hearings, (4) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (5) to require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (6) to take depositions and other testimony, (7) to procure the service of individual consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946, as amended, and (8) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administrations, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The chairman of the select committee shall preside over meetings of the select committee, except that in his absence any other member of the select committee designated by the chairman may preside.

(c) The chairman of the select committee or any member thereof may administer oaths to witnesses.

(d) Subpoenas authorized by the select committee may be issued over the signature of the chairman, or any other member designated by the chairman and may be served by any person designated by the chairman or member signing the subpoena.

SEC. 4. For the period from the date this Resolution is agreed to through December 31, 1974, the expenses of the select committee under this Resolution shall not exceed $900,000, of which amount not to exceed $400,000 shall be available for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended.

SEC. 5. The select committee shall submit to the Senate a report of its findings, together with such recommendations as it deems advisable, at the earliest practicable date, but not later than June 1, 1974. The select committee may also submit to the Senate such supplementary reports on the issues treated in its initial report as it considers appropriate. The select committee shall cease to exist on December 31, 1974.

SEC. 6. Expenses of the select committee under this Resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee.

## ADDITIONAL COSPONSORS OF RESOLUTIONS

SENATE RESOLUTION 107

At the request of Mr. MATHIAS, the Senator from Massachusetts (Mr. KENNEDY), the Senator from Missouri (Mr. EAGLETON), the Senator from Wisconsin (Mr. NELSON), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Florida (Mr. CHILES), the Senator from Colorado (Mr. HASKELL), the Senator from Hawaii (Mr. INOUYE), the Senators from Maine (Mr. MUSKIE and Mr. HATHAWAY), the Senator from Illinois (Mr. STEVENSON), the Senator from Ohio (Mr. SAXBE), the Senator from California (Mr. TUNNEY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator

from Alaska (Mr. GRAVEL), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Iowa (Mr. HUGHES) were added as cosponsors of Senate Resolution 107 to require due process of law in the formulation of the foreign and military policy of the United States.

SENATE RESOLUTION 109

At the request of Mr. STEVENSON, the Senator from Missouri (Mr. SYMINGTON) was added as a cosponsor of Senate Resolution 109, relating to the appointment of a special prosecutor by the Attorney General-designate.

## EMERGENCY MEDICAL SERVICES SYSTEMS DEVELOPMENT ACT OF 1973—AMENDMENT

AMENDMENT NO. 120

(Ordered to be printed and to lie on the table.)

Mr. MAGNUSON. Mr. President, this is not a complicated amendment which I submit to S. 504. It would not create any new programs, and it would not impose any new burden on the budget. Its only purpose is to keep open the Public Health Service Hospitals in Seattle, San Francisco, Galveston, New Orleans, and Baltimore.

As befits legislation dealing with health care—which is truly a nonpartisan concern in the Senate—this amendment is sponsored by Members from both sides of the aisle. As the author of the amendment, I am very pleased to be joined in this effort by my distinguished colleague from Washington (Mr. JACKSON), the distinguished Senators from Texas (Mr. TOWER and Mr. BENTSEN), the distinguished Senators from Louisiana (Mr. LONG and Mr. JOHNSTON), the distintinguished Senator from California (Mr. TUNNEY) the distinguished Senator from Maryland (Mr. BEALL), the distinguished Senator from New York (Mr. JAVITS), and the distinguished Senator from Maryland (Mr. MATHIAS).

WHAT THE AMENDMENT WOULD REDUCE

Mr. President, our amendment would impose four requirements on HEW:

First, it would require the Department to continue operating the Seattle, San Francisco, Galveston, New Orleans and Baltimore hospitals until such time as the Congress, by law, authorizes their closure or transfer to community use.

Second, until the Congress authorized otherwise, it would require the hospitals to continue serving all categories of patients who were eligible for care on January 1 of this year.

Third, until the Congress authorized otherwise, it would require the hospitals to continue providing a level and range of health care services and health-related activities at least as great as they were on January 1.

Fourth, and finally, it would direct the executive branch to spend all funds appropriated for these hospitals unless the other requirements of the amendment could be met with smaller expenditures.

PLANS REQUIRED BY PUBLIC LAW 92–585

Mr. President, in late 1970, the administration first suggested that the eight PHS hospitals be closed or transferred to community use. Last year, Congress enacted Public Law 92–585 which required that before HEW could close any PHS hospital it had to submit to Congress detailed plans showing how the hospital's responsibilities would be met if any of the hospitals were closed. The law required that those plans be sent to us at least 90 days before the proposed closure or transfer. The purpose of those requirements, of course, was to give Congress an opportunity to study the plans and to take appropriate action to keep the hospitals open if the plans were not satisfactory.

On March 28, we received HEW's plans for closing this July the PHS hospitals in Seattle, San Francisco, Galveston, New Orleans, Baltimore, and Boston. Also, at that time HEW indicated it intends to submit similar plans soon for the Norfolk and Staten Island hospitals. Basically, these plans call for contracting with community hospitals to provide care for primary beneficiaries of the PHS hospitals.

As I shall discuss in a few moments, the plans for Seattle, San Francisco, Galveston, Baltimore, and New Orleans are seriously deficient. Consequently, we are forced to offer this amendment.

Mr. President, before I get into the specific problems with HEW's plans for these hospitals, I want to comment on the two basic arguments advanced by HEW to justify closing the hospitals. Specifically, HEW maintains, first, that PHS beneficiaries will be better served by its proposals, and second, that the Federal Government will save money.

COURT ACTION BY BENEFICIARY GROUPS

With respect to the first argument, I would point out that beneficiary groups have filed suit in Federal court in both New York and Seattle to keep the PHS hospitals open. Obviously, then, they do not feel they would be better served under HEW's proposals.

FEDERAL GOVERNMENT WILL NOT SAVE MONEY

Now, let us look at the cost argument. According to HEW's own figures, it would cost the Federal Government $99.1 million in fiscal year 1974 operating costs to continue the six PHS Hospitals it has announced it plans to close this July. Under its plan, according to HEW, the total fiscal year 1974 operating cost would be $107.5 million. In other words, the Federal Government will have to pay $8.4 million more in fiscal year 1974 operating costs if the hospitals are closed.

Also, according to HEW's figures, the Federal Government will have to pay $7.3 million in nonreoccurring costs in fiscal year 1974 to phaseout the hospital staffs. This $7.3 million would be used for such expenses as severance pay.

In other words, the total fiscal year 1974 Federal cost of HEW's plan for closing the six hospitals will be $114.8 million. That is $15.7 million more than it would cost to continue operating the hospitals.

Now, it is true that these hospitals do need major repairs. HEW estimates the repair cost would be $36.3 million. And it is to that figure which HEW points to prove it will be cheaper to close the hospitals.

But remember that the annual operating cost of HEW's proposals will be about $8.4 million higher each year than would be the annual operating cost of continuing the six PHS Hospitals. Over 5 years, then, the savings in operating costs which would be accumulated by keeping the hospitals open would pay for the one-time repair cost of $36.3 million.

In the long run, then, the Federal Government will not save any money by closing these hospitals.

THE PROBLEMS WITH HEW'S PLANS

Mr. President, important as it is, direct patient care is only one of the functions served by the PHS Hospitals. They are also involved in health manpower training, research, and community health programs. According to the plans submitted by HEW on March 28 for the hospitals in Seattle, San Francisco, Galveston, New Orleans, Baltimore, and Boston, research that requires in-patient care will be terminated and manpower training programs will be ended.

Taken together, the hospitals covered by our amendment are now providing essential educational opportunities for 1,604 persons training for the health professions. For example, one-fourth—or about 200 students—of the University of Washington Medical School's enrollment is in training at the Seattle PHS Hospital along with more than 300 others studying for a variety of health careers. Elimination of those training opportunities could well force the University of Washington and other schools in the area to severely cut back their health science enrollments. At a time when the Nation has such serious health manpower shortages I believe it is imperative that we not eliminate available training opportunities such as these.

HEW's plans pose similarly difficult problems with respect to the community health programs now served by these PHS hospitals. In New Orleans, for example, inpatients will no longer be accepted from the model city family health clinics and HEW's plan makes no provision for an alternative source of care. In San Francisco, a PHS hospital program that now provides psychiatric services for those in the community will be terminated without alternative arrangements.

In many other cases, HEW's plan vaguely indicates that these community programs will have other sources of assistance available but does not provide any real evidence to demonstrate that will, in fact, be the case.

The Seattle hospital, for example, currently provides essential supportive services—X-ray, lab tests, et cetera—for a network of 17 community clinics that are staffed free of charge by doctors to provide free care to medical indigents. HEW's plan boldly asserts that similar support services will be provided elsewhere in the community but gives absolutely no evidence to prove that will, in fact, be possible.

The most serious problems with HEW's plans, however, are their de-

ficiencies with respect to the arrangements that will be available for those who now receive direct inpatient care at the PHS hospitals. Let me illustrate this point by using the Seattle situation as an example.

In fiscal year 1972, the Seattle PHS hospital cared for 4,842 inpatients including about 1,100 merchant seamen, over 2,000 active or retired military personnel and dependents, 550 Indians, 87 persons referred by the free community clinics, and several hundred civilian Federal employees.

HEW proposes to contract with local hospitals to care for the seamen and other primary beneficiaries. Yet now, just a few weeks before the PHS hospital is to be closed, HEW has not yet negotiated a single contract with any community hospital. Military personnel, HEW says, are to be referred to military hospitals. However, the Department's plan gives no details as to which military hospitals. More important, the plan gives no proof that the military facilities in the Seattle area have the capacity to handle these patients. This is especially disturbing in light of information that the Madigan Army Medical Center at Fort Lewis is currently undergoing major staff reductions. Finally, HEW's plan provides no hard information at all as to where the medical indigents will receive hospitalization.

In sum, HEW is asking us and the PHS beneficiaries to trade a health care system we know is working for a package of extremely vague paper proposals.

## THE WEST COAST CORRIDOR FEASIBILITY STUDY ACT OF 1973—AMENDMENT

AMENDMENT NO. 121

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

Mr. MAGNUSON. Mr. President, I am submitting an amendment to S. 1328, a bill sponsored by my two colleagues from California which provides for a study of a high speed ground transportation system between the cities of Sacramento, San Francisco, Fresno, Los Angeles, and San Diego in the State of California.

My amendment would expand the scope of this study to include essentially the entire west coast. The Secretary would be directed to study not only the feasibility of the routes specified in S. 1328, but also the route from San Francisco to Vancouver, B.C., by way of Portland and Seattle.

Senator TUNNEY has detailed the need for moving as rapidly as possible in attempting to solve the coming crisis in transportation in the California corridor. The problems which he has mentioned are common to the entire west coast, and any study which attempts to deal with these problems would be comprehensive in its scope and should include the heavily traveled route between San Francisco, Portland, Seattle, and Vancouver, B.C.

As has been pointed out by Senator TUNNEY, high speed ground transportation will probably not replace the automobile or the airplane on most of these routes, but it may help share a significant part of the future burden with these types of transportation. We must move ahead in the research, development, and implementation of new modes of transportation for the heavily traveled west coast corridor. The success of the Metroliner program in the Northeast corridor is well known, and there is a possibility that some form of advanced Metroliner service would be viable for the west coast. There are differences between the two areas, however, and it may well be that the greater distances involved make this sort of program less attractive than it is in the New York to Washington area. Because of the unique problems involved on the west coast, it may well be that the long-range solution to the transit problems there will come from implementation of new concepts in surface transportation. There are a number of systems currently under study and development by the Department of Transportation, and it is highly possible that one of them could be the ideal system for use in the west coast corridor.

The study called for by this bill would be considering systems which could operate at cruising speeds in excess of 200 miles per hour. The study would consider the placement of access points in areas which would make maximum use of local mass transit systems; and environmental and energy requirements of any such system would be integral to the study.

It is most important that we plan now for the transportation needs of the future. We have already seen in the Northeast railroad crisis what can occur from haphazard unplanned growth of present transit systems. The need for long-range planning and thorough study is obvious. The leadtime for the implementation of any such system is large; most experts think that any new system could not possibly be fully operational before the year 1985. As Senator TUNNEY has already pointed out, "every day we waste now may cost us dearly in the 1980's."

I ask unanimous consent that the bill as proposed to be amended be printed at this point in the RECORD.

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

S. 1328

A bill to direct the Secretary of Transportation to make an investigation and study of the feasibility of a high-speed ground transportation system between the cities of San Diego in the State of California and Vancouver in the Province of British Columbia by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, and Los Angeles in the State of California

*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 West Coast Corridor Feasibility Study Act of 1973".

SEC. 2. The Secretary of Transportation is directed and authorized to make an investigation and study for the purpose of determining the social advisability, technical feasibility, and economic practicability of a high-speed ground transportation system between the cities of San Diego in the State of California and Vancouver in the Province of British Columbia by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, and Los Angeles in the State of California. In carrying out such investigation and study the Secretary shall consider—

(1) the various means of providing such transportation, including those under development, such as the tracked levitation vehicle;

(2) the cost of establishing and operating such a system, including any acquisition of necessary rights-of-way;

(3) the environmental impact of such a system including the future environmental impact from air and other transportation if such a system is not established;

(4) the factors which would determine the future adequacy and commercial success of any such system, including the speed at which it would operate, the quality of service which could be offered, its cost to potential users, its convenience to potential users, and its ability to expand to meet projected increases in demand;

(5) the efficiency of energy utilization and impact on energy resources of such a system, including the future impact of existing transportation systems on energy resources if such a system is not established;

(6) the ability of such a system to be integrated with other local and intrastate transportation system, both existing and planned, in order to create a balanced and comprehensive transit system within the State of California; and

(7) such other matters as he deems appropriate.

SEC. 3. In carrying out the investigation and study pursuant to this Act, the Secretary of Transportation may enter into contracts and other agreements with public or private agencies, institutions, organizations, corporations, or individuals, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

SEC. 4. The Secretary of Transportation shall report the results of the study and investigation pursuant to this Act, together with his recommendations, to the Congress and the President as soon as practicable.

SEC. 5. There is authorized to be appropriated eight million dollars to carry out the provisions of this Act.

## HEALTH MAINTENANCE ORGANIZATIONS—AMENDMENT IN THE NATURE OF A SUBSTITUTE

AMENDMENTS NOS. 122 AND 123

(Ordered to be printed and lie on the table, No. 122 and No. 123, printed and referred to the Committee on Finance.)

Mr. JAVITS. Mr. President, I yield myself 1 minute on another subject.

Senators will be considering tomorrow the authorizing legislation for health maintenance organizations. I will submit today, as a total substitute for the bill, an approach which endeavors to make it truly an experimental program with adequate resources, but still an experimental program, to prove what needs to be proved in respect to health care delivery.

I hope Members of the Senate will carefully study the bill as it will be considered as a committee substitute for the bill which is before the Senate. I hope, in view of the differences which have developed on the bill before the Senate, which are very sharp, that it may prove to be a way in which we may legislate with both

wisdom and prudence in aid of this very important proposal.

Mr. President, I introduce and send to the desk for appropriate reference an amendment to my National Health Insurance and Health Services Improvement Act (S. 915) and on behalf of myself and the Senator from Pennsylvania (Mr. SCHWEIKER), an amendment to S. 14, both of which are identical in substance. The purpose of the amendment is twofold:

First, to substitute an amended version of S. 14—the committee reported HMO bill now pending on the Senate calendar—for title IV of my national health insurance bill—the Local Comprehensive Health Services Systems Act, which I first introduced in the 91st Congress—and express my support for the stimulation and development of financially viable prepaid group practice units, now commonly known as HMO's; and

Second, to provide the framework for a substitute HMO bill which could serve as a reasonable compromise for the Administration HMO bill (S. 972), which I introduced with the cosponsorship of Senator SCHWEIKER, and S. 14.

The major differences between S. 14 and the HMO amendment to my national health insurance bill I introduce today are:

1. Reductions in the total authorizations from $1.5 billion over 3 years for S. 14, to $705 million over 3 years for the amendment. It should be noted that the authorization levels which total $705 million are precisely the same as the authorizations in S. 14, after excluding certain authorizations for categorical programs in S. 14 as hereinafter discussed, and reducing the third year authorization for initiative awards by $75,000,000.

2. Deletion of the authorizations in S. 14 for capitation grants for HMO's, (a) for the expenses of such organization's premium differentials and (b) to fulfill the open enrollment requirement for high risk enrollees.

Whether these authorizations would be funded is highly improbable! Therefore, the amendment provides that the Secretary shall determine how existing Federal resources could be utilized to achieve the desirable goal of enabling HMO's to serve high risk enrollees and, also, report on the need—if necessary—for additional legislative authority to accomplish that end.

3. Deletion of the categorical S. 14 authorizations for the HMO entities defined as Health Service Organizations and Area Health Education Centers. Ample authority to accomplish the purposes of these specific categorical programs—Health Service Organizations and Area Health Education Centers—are included within the authorized Supplemental HMO's in S. 14 and by this amendment.

4. Rather than independent agency status, as provided in S. 14 for the Commission on Quality Health Care Assurance, its vital, well-defined role and mission is to be established within the Department of Health, Education, and Welfare. By establishing the Commission in HEW, it will be able to utilize ongoing quality assessment, control, and regulation programs, and most effectively and economically become an effective mechanism for developing the urgently needed capability to assess and monitor the quality of health care on a national scale.

5. The Federal medical malpractice reinsurance program is deleted. The inclusion of this provision in S. 14 occurred before the committee had the benefit of the recent "Report of the Secretary's Commission on Medical Malpractice." The Commission's recommendations are aimed at preventing medical injuries, deterring unnecessary malpractice claims, improving the efficiency and fairness of the claims-resolution process, and providing prompt rehabilitation and equitable compensation to medically injured persons. Also, as its final recommendation, the Commission called for creation of a nongovernmental, nonprofit organization which would be the nationwide focal point for malpractice research, information, education, and prevention activities. There is a medical malpractice crisis and it is imperative that we bring reform to this critical area based on the Commission's recommendations.

6. The power of the Secretary to waive defined mandated health benefits is expanded so that it may be based not only on the lack of health manpower in S. 14, but also to include lack of health facilities and equipment. The absence of adequate health manpower resources in a given geographic area necessary to providing a specific service within the required range of comprehensive health services is not the only critical problem an applicant for assistance may confront. The absence of adequate health facilities and equipment may also necessitate a waiver of a specific service.

The essential legislative concepts embodied in S. 14 and carried forward by this amendment are:

(1) ORGANIZATION OF MEDICAL RESOURCES

To insure that Federal assistance will effectuate real change in the health care system, the essential elements of the HMO concept are defined with great precision: (a) Provision of comprehensive medical services; (b) to a defined enrolled population; (c) on a prepayment rather than a fee-for-service basis. In the recognition that bringing such organization into the delivery of medical care is "a consummation devoutly to be wished," but may not come to pass, the flexible HMO concept, which encompasses a wide range of possibilities for methods of delivering medical care, is also authorized—supplemental HMO's. And, for example, the individual practice type HMO's—such as foundations for medical care sponsored by local medical societies—which also seek to stimulate innovation in health care delivery, are eligible for Federal support—in addition to the reserved percent of appropriations—in the event there are no qualified closed panel HMO group practice applicants.

Escalating medical costs, which have increased at twice the rate of the cost of living in the last decade; the unavailability of adequate—or sometimes of any—health care in inner-city and rural areas; fragmented and inaccessible services to many citizens in all walks of life; the prohibitive costs of serious illness; and insufficient use of preventive measures which can substantially reduce the incidence of disease and its severity, are all evidence of the problems in our Nation's health care system. The bill and my amendment seek to provide a solution through the establishment of HMO's—a legislative concept I first authored in the 91st Congress.

In his 1971 health message to Congress, President Nixon described the HMO as a vehicle which "organizes medical resources in a way that is more convenient for patients and more responsive to their needs". The HMO, the President explained, offers an alternative to forcing the consumer to thread his own way through a complex maze of separate services and specialists by making a full range of health services available through a single organization and by insuring that the most effective combination of resources is utilized. The President stressed that "in an HMO, cost consciousness is fostered. Such an organization cannot afford to waste resources—that costs more money in the short run." Thus, HMO's have a strong financial interest in preventing illness, or failing that, in treating it in its early stages, promoting a full recovery and preventing any recurrences; they are motivated to function efficiently because they must stay within predetermined budgets.

The President's statements advance the arguments for a Federal policy to encourage the formation and growth of health maintenance organizations, so that in the future the health care industry would be comprised of a substantial proportion of HMO's competing for consumers with each other and with the traditional system.

(2) SUPPLEMENTAL HMO'S

I believe there is sufficient evidence to warrant closed panel prepaid group practice as the optimum organizational form of health care delivery, and I cite testimony comparing an HMO model delivering 25 percent more outpatient visits per capita per year to enrollees for the same outpatient benefits in 1971 for $111 per capita—to fee-of-service care at $113 per capita. Thus, even though this HMO's enrollees utilize outpatient care at a great rate—25 percent—the HMO delivered it at a lower per capita cost. This experience is not unique to one HMO. There have been a number of studies relating to large groups of people found in all prepaid group practice plans.

In regard to hospital care, the Federal employees health benefits program has demonstrated repeatedly a far lower hospital utilization experience in every one of the prepaid group practice plans than in other types of health insurance programs.

I refer Senators to that 7-year study, which has been included in volume VI of the hearing record, beginning at page 2635.

To assure a response to varying local needs and capitalize on the strengths and flexibility of the pluralistic health-care system already in place, providers are encouraged to work within any one of a number of HMO settings consistent with principles and reasonable criteria which are more likely to be accepted by providers and will therefore bring about reform in the health care delivery system in the long term, but not to the degree and with the rapidity contemplated by the strictly defined HMO. For that reason, I believe that supplemental HMO Federal support should come only when all qualified applicants authorized under part A of title I of the amendment have been funded. This is not to say such HMO's are inferior—although, in fact, they do not provide one-stop care nor guarantee it to be both medically and economically more desirable to keep a population in good health, rather than simply to treat episodic illnesses as they occur—but rather such HMO applicants choose not to meet the strict definition and provide the broad range of health benefits mandated by part A of title I of the amendment.

(3) STATE LAW PROBLEM

Although the phrase "health maintenance organization" has been recently coined and thus has the appearance of a totally new concept, it is not. In the United States, examples of organizations that would meet the criteria proposed for defining an HMO have been in existence for nearly 40 years. This has given rise in some quarters—particularly among stalwarts of cherished fee-for-service private practice who are alarmed at the prospect of competition—to the argument that—if the concept is so competitive with the relatively unorganized fee-for-service system which is most prevalent in this country—it would have spread more widely than has been the case. This is untrue. The history of the development of prepaid comprehensive group practice in this country is one of constant harassment and opposition—both direct and through restrictive legislation. The efforts to block the spread of the prepaid group practice form of medical care organization have been aided by restrictive State legislation which has placed barriers in the way of group practice development without any valid social or technical reason.

The financial and organizational aspects of the bill are important—but even more important, is the Government's commitment, pursuant to section 1213 of the amendment, to using its considerable leverage to force change where voluntary change would never come. In essence, this provision overrides State law through the use of Federal power in respect to State laws which prohibit or impede the operation of community oriented, consumer sponsored, prepaid group practice units. This represents a major shift from a time when the Government was the willing partner of those forces fighting to maintain the status quo in health care organization in the United States. As the inequities in health services available under the present system have become more widely recognized, the inadvisability of maintaining a system that responds primarily to the professional interest, often at the expense of the public interest, has become manifest.

I believe that if there is to be an effective, meaningful HMO alternative in this country, restrictions must be removed relating to the formation and operation of HMO's characterized by: State laws which vest the control of health plans in the hands of the medical profession; regulations by insurance commissions which seek to adapt prepaid group practice plans to principles of insurance by blurring or ignoring the distinctions between direct service organizations and third party cash indemnity payers; common law practice of medicine rules which prohibit altogether the use of the corporate form for the provision of health services; and use of ethical sanctions by local medical societies to deter physicians from participating in prepaid group practice.

The extent of the problem of State laws that often hamper HMO development was confirmed by Elliot L. Richardson, former Secretary of the Department of Health, Education, and Welfare, when he testified before the Subcommitee on Health, Committee on Labor and Public Welfare, that:

> Many States impose legal restrictions on HMO development which will have to be overcome, for example, in the areas of licensure of health professionals and sponsorship of HMO's. Twenty-one States have even more restrictive laws, in some instances, requiring HMO's to operate under rules applicable to Blue Shield plans or insurance companies. Since HMO's operate in a different fashion from either of these, such laws make it difficult for HMO's to organize.

This is achieved and in a manner which assure that the supplanted State laws do not have HMO's free to function in a "vacuum," relieved of State and local regulations. Rather, the HMO, which otherwise conforms to State laws for incorporation and licensing of health professionals, must provide health care services in accordance with the strictly defined provisions of this act.

(4) QUALITY OF CARE

We must improve our ability to assure the public that the services they receive are of a quality which meets basic professional standards. To achieve this goal, the amendment establishes a Commission on Quality Health Care Assurance in the Department of Health, Education, and Welfare, which, in essence, would: monitor quality mechanisms, prescribe criteria and norms, certify provider quality programs, operate malpractice reinsurance programs which might be established and do research; and each health care provider certified by the Commission would be entitled to receive an annual payment to defray administrative costs associated with maintaining quality standards.

The need for assurance of quality health has been one of the great challenges of delivering health services and transcends any one form of health delivery. Therefore, the bill broadens the mandate of the Commission beyond HMO's to encompass all federally financed health care programs under the Public Health Service Act, for which legislation this committee has jurisdiction. Reform of the health care delivery system in the United States must consider means of assuring quality for consumers and this need must not be ignored by the health industry, and organizations that maintain the health of people. They must set an example providing services of the highest quality. This is the least we can expect from an affluent and humane nation.

CONCLUSION

As we focus our priorities upon the need for national health insurance we must recognize the need to augment and improve the capacity of the health care establishment to meet the increased demands which will result from any new national health program. Therefore, we must seek to find ways to improve access to health care and to control the costs and to maintain the quality of that care. In short, this amendment improves the system for delivering health care by authorizing support for the concept of organized, prepaid health care delivery systems—HMO's—which can provide a full range of services.

Mr. President, I ask unanimous consent that the summary of substitute for S. 14 and full text of my amendment be printed in the RECORD.

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

AMENDMENT NO. 122

Commencing on page 107, strike out all after the enacting clause and insert in lieu thereof the following:

"TITLE IV—HEALTH MAINTENANCE ORGANIZATIONS

"SHORT TITLE

"SECTION 1. This title may be cited as the 'Health Maintenance Organization Act of 1973'.

"CONGRESSIONAL FINDINGS

"SEC. 2. (a) The Congress finds that—

"(1) the medical care system is not organized in a manner which encourages the provision of medical care at reasonable costs;

"(2) the medical care system is oriented toward providing care once a health need has occurred rather than toward providing health maintenance and preventative health services; and

"(3) there is a serious maldistribution of medical care resources which has resulted in inadequate access to medical care in both inner city and rural areas.

"(b) The purpose of this Act is to assist in remedying these deficiencies through encouraging the establishment and utilization of health maintenance organizations, particularly in medically underserved areas by improving the system for the delivery of health care through encouragement of any support for the planning, development, and initial operation of health maintenance organizations and supplemental health maintenance organizations, particularly with the intent of improving the health of populations in medically underserved areas.

"(c) Nothing in this title, or any amendment made by this Act, shall be construed to supersede any activity relating to review of the provision of health care services under (including review and assessment of quality or quantity of such services or determination or reimbursement therefor) or to the determination of eligibility of any provider,

practitioner, agency, or organization to participate under any program established under the Social Security Act.

"AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT

"SEC. 3. The Public Health Service Act (42 U.S.C. 201) is amended by inserting after title XI the following new title:

"'TITLE XII—HEALTH MAINTENANCE ORGANIZATIONS

"'PART A—SUPPORT OF HEALTH MAINTENANCE ORGANIZATIONS

"'DEFINITIONS

"'SEC. 1201. For the purposes of this title:

"'(1) The term "health maintenance organization" means an entity which—

"'(A) provides as a minimum for all its enrollees (or subscribers) comprehensive health services (as defined in this section) which are uniformly available to all its enrollees (or subscribers) directly through its own staff and supporting resources or through a medical group or groups and such other additional services as may be required through other health delivery entities, or a fixed payment which (i) is to be paid on a periodic basis without regard to the frequency, extent, or kind of health service actually furnished to any particular enrollee; and (ii) is uniform for all its enrollees subject to rules and regulations regarding family rates;

"'(B) demonstrates to the satisfaction of the Secretary ability to assure that appropriate comprehensive health services are available and accessible to all its enrollees promptly and in a manner which assures continuity;

"'(C) demonstrates to the satisfaction of the Secretary financial responsibility through proof of adequate provision against the risk of insolvency;

"'(D) is organized in such a manner (as prescribed by regulations of the Secretary) that assures its enrollees a substantial role (generally defined as one-third representation in the body establishing or recommending policy) in the making of policy for the health maintenance organization, with equitable representation of enrollees from medically underserved areas, and provides meaningful procedures for hearing and resolving grievances (i) between its enrollees and the health maintenance organization (including the medical group or groups and other health delivery entities providing health services), and (ii) between the medical group or groups providing health services and other employees and the health maintenance organization;

"'(E) encourages and actively provides for its enrollees (i) health education services, (ii) education in the appropriate use of health services provided, and (iii) education in the contribution the patient can make in the maintenance of his own health;

"'(F) has organizational arrangements, established in accordance with regulations of the Commission on Quality Health Care Assurance (established under title XIII of this Act) for an ongoing quality assurance program which stresses health outcomes and assures that health services provided meet the requirements of the Commission on Quality Health Care Assurance;

"'(G) provides, in accordance with regulations of the Secretary (including safeguards concerning the confidentiality of the doctor-patient relationship), an effective procedure for developing, compiling, evaluating, and reporting to the Secretary, data (which the Secretary shall publish and disseminate on an annual basis relating to (i) the cost of its operations, (ii) the patterns of utilization of its services, (iii) the availability, accessibility, and acceptability of its services, and (iv) such other matters as the Secretary may require and disclose at least annually and in a manner acceptable to the Secretary, such data to its enrollees and to the general public;

"'(H) except for (i) out of area emergency care, and (ii) care reasonably valued in excess of the first $5,000 per enrollee per year, assumes direct financial responsibility, without benefit of insurance, on a prospective basis for the provision of the comprehensive health services defined in this section;

"'(I) has an open enrollment period, unless a waiver has been granted under section 1216, of not less than thirty days at least once during each consecutive twelvemonth period during which it accepts individuals in the order in which they apply for enrollment up to its capacity, subject to the requirements of paragraph (K);

"'(J) assumes responsibility for the provision of health care services to its enrollees (and on a reimbursable basis for short-term health care services to enrolees of any other health maintenance or supplemental health maintenance organization who are temporarily outside the service area of the health maintenance or supplemental health maintenance organization in which they are enrolled) twenty-four hours a day, seven days a week, and for the appropriate availability of such services in emergencies;

"'(K) shall enroll no more than 50 per centum of its enrollees from medically underserved areas, except in rural areas as designated by the Secretary;

"'(L) provides, or makes arrangements for, continuing education for its staff;

"'(M) emphasizes the use of nurse practitioners, physician's assistants, dental therapists, and other allied health personnel and to the extent practicable and consistent with good medical practice, trains and employs such personnel in the rendering of services;

"'(N) provides to its enrollees as an option, for an additional premium, extended care facility services and dental services;

"'(O) may purchase on a fee-for-service basis unusual or infrequently used health care services for its enrollees;

"'(P) does not refuse enrollment to or expel any person for any reason concerning his health status or requirements for the provisions for the provision of health services;

"'(Q) provides for the prevention, diagnosis, and medical and psychological treatment of the abuse of or addiction to alcohol and drugs either through its own facilities or existing community facilities; and

"'(R) meets such other criteria for its organization and operations as the Secretary may by regulation prescribe, consistent with the provisions of this title.

"'(2) The term "comprehensive health services" means health services provided without limitation as to time or cost as follows—

"'(A) physician services (including consultant and referral services);

"'(B) inpatient and outpatient hospital services;

"'(C) home health services;

"'(D) diagnostic laboratory, and diagnostic and therapeutic radiologic services;

"'(E) preventive health (including but not limited to voluntary family planning, infertility services, and preventive dental care for children) and early disease detection services;

"'(F) emergency health services rendered by any provider of health care, the expense of which shall be borne by the enrollee's health maintenance or supplemental health maintenance organization;

"'(G) provision of or payment for prescription drugs (with patterns of patient drug utilization under continuous surveillance, evaluation, and review by a clinical pharmacist whose duties shall include the maintenance of a drug use profile for each enrollee);

"'(H) medical social services;

"'(I) vision care (except for eyeglasses which shall be optional) as provided by a physician skilled in the diagnosis and treatment of diseases of the eye, or by an optometrist provided such services are within the scope of his license;

"'(J) physical medicine and rehabilitative services (including physical therapy);

"'(K) mental health services utilizing existing community mental health centers on a priority basis;

"'(L) preventive diagnostic and medical and psychological treatment of the abuse of or addiction to alcohol and drugs; and

"'(M) such other personal health services as the Secretary may determine are necessary to insure the protection, maintenance, and support of human health.

"'(3) The term "medical group" means a partnership or other association or group of health professionals of whom not less than four and at least a majority shall be persons who are licensed to practice medicine or osteopathy, and such other licensed health professionals as are necessary to provide comprehensive health services and who are eligible for assistance under this Act, in conformance with requirements promulgated under section 1302, in a State and who (A) as their principal professional activity engage in the coordinated practice of their profession as a group responsibility providing services to health maintenance or health service organization enrollees; (B) if not employees or retainees of a health maintenance organization, or health service organization, pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary or drawing account plan; (C) jointly use or share medical and other records and substantial portions of major equipment and professional, technical, and administrative staff; (D) share or jointly utilize such additional health and allied health professionals who may include but are not limited to psychologists and other mental health workers, optometrists, pharmacists, podiatrists, dental therapists, physician's assistants, nurse practitioners and nurse midwives, as are needed to provide comprehensive health services; and (E) arrange for and encourage the continuing education of their members in the field of clinical medicine and related areas.

"'(4) The term "enrollee" when used in connection with a health maintenance organization or supplemental health maintenance organization (as defined in part B), means an individual who has entered into a contractual arrangement, or on whose behalf a contractual arrangement has been entered into, with a health maintenance organization or supplemental health maintenance organization under which such organization assumes the responsibility for the provision of health services to such individual.

"'(5) The term "medically underserved area" means an urban or rural area or population group designated by the Secretary as an area or population group with a shortage of personal health services. Such a designation may be made by the Secretary only after consideration of the comments, if any, of (A) each State comprehensive health planning agency designated pursuant to section 314(a) of this Act covering, in whole or in part, such area, (B) each areawide comprehensive health planning agency designated pursuant to section 314 (b) of this Act, covering, in whole or in part, such area, and (C) regional medical programs established pursuant to title IX of this Act, covering, in whole or in part, such area.

"'(6) The terms "construction" and "cost of construction" include (A) the construction of new buildings, and the acquisition, expansion, remodeling, replacement, and alteration of existing buildings, and including

architects' fees, and (B) equipping new buildings and existing buildings, whether or not acquired, expanded, remodeled, or altered with assistance under this title.

"'(7) The term "university health center" means a health care institution which is owned and operated by an accredited university or college of medicine or which has a written affiliation arrangement with an accredited university or college of medicine for the purpose of educating undergraduate medical students.

"'(8) The term "nonmetropolitan area" means an area no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget, and does not contain a city whose population exceeds fifty thousand persons.

"'(9) The term "nonprofit provider group" means an incorporated body of health providers (including physicians, administrators, nurses, and paraprofessionals who qualify under the Public Health Service Act) that is regional in scope.

"'(10) The term "high-risk enrollee" means a person who is likely to utilize the services of a provider of health care more often than an actuarially determined average.

"'GRANTS FOR PLANNING AND FEASIBILITY STUDIES

"'SEC. 1202. (a) The Secretary may make grants, subject to the general provisions of this title, to public or private nonprofit agencies, organizations, or institutions to assist in projects for planning or studying the feasibility of developing or expanding health maintenance organizations. No project may receive more than $250,000 in grants under this section. Funds awarded under such grants shall be available for expenditure by the grantee for such period (not to exceed two years from the date of award) designated by the Secretary.

"'(b) In making grants under this section the Secretary shall give priority to those applicants who give assurances that at least 30 per centum of their total enrollment shall be persons from medically underserved areas.

"'(c) There are authorized to be appropriated to carry out the provisions of this section $10,000,000 for the fiscal year ending June 30, 1974, $15,000,000 for the fiscal year ending June 30, 1975, and $20,000,000 for the fiscal year ending June 30, 1976.

"'GRANTS FOR INITIAL DEVELOPMENT COSTS

"'SEC. 1203. (a) The Secretary may make grants, subject to the general provisions of this title, to any public or assist them in meeting the costs involved in a project for the initial development of a health maintenance organization prior to its first day of operation. No project may receive more than $1,000,000 in grants under this section.

"'(b) Sums awarded under such grant shall be available for expenditure by the grantee for not more than three years, and shall be utilized for such purposes as may be prescribed in regulations of the Secretary, including but not limited to (1) implementation of an enrollment campaign; (2) detailed design of and arrangements for the health services to be provided; (3) development of administrative and internal organizational arrangements, including fiscal control and fund accounting procedures and the development of a capital financing program; (4) recruitment of personnel and the conduct of personnel training activities; and (5) payment of architects' and engineers' fees.

"'(c) In making grants under this section the Secretary shall give priority to those applicants who give assurances that at least 30 per centum of their total enrollment shall be persons from medically underserved areas.

"'(d) There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for the fiscal year ending June 30, 1974, $25,000,000 for the fiscal year ending June 30, 1975, and $30,000,000 for the fiscal year ending June 30, 1976.

"'CONSTRUCTION GRANTS

"'SEC. 1204. (a) The Secretary may make grants, subject to the general provisions of this title, to assist any public or private nonprofit health maintenance organization or any public or private nonprofit agency, organization, or institution intended to become a health maintenance organization in meeting the cost of construction of facilities or portions of facilities for ambulatory care and capital investment for necessary transportation equipment, to be used by it for the provision of health services to its enrollees. The Secretary shall give special consideration to applications for grants for the acquisition or renovation of existing facilities. Except for exceptional circumstances, in which case up to 90 per centum of the cost of construction (as determined by the Secretary) may be authorized by the Secretary, no grant under this section for any project may exceed 75 per centum of the cost of construction of such project. No project may receive more than $2,500,000 in grants under this section.

"'(b) In making grants under this section the Secretary shall give priority to those applicants who give assurances that at least 30 per centum of their total enrollment shall be persons from medically underserved areas.

"'(c) There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for the fiscal year ending June 30, 1974, $30,000,000 for the fiscal year ending June 30, 1975, and $40,000,000 for the fiscal year ending June 30, 1976.

"'GRANTS FOR INITIAL COSTS OF OPERATION

"'SEC. 1205. (a) Where the Secretary determines that the applicant has made all reasonable attempts to meet his operating expenses (including loans and loan guarantees), he may make grants to public and private nonprofit health maintenance organizations to assist them in meeting operating deficits during the initial three-year period of their operation.

"'(b) Grants under this section shall be made only for the period beginning with the first day of the first month for which such grant is made and ending with the close of three years after such first day; and such grant with respect to any such organization may not exceed 100 per centum of such operating deficit for the first year after such first day; 67 per centum of such first year operating deficit for the second year after such first day, and 33 per centum of such first year operating deficit for the third year after such first day.

"'(c) There are authorized to be appropriated to carry out the provisions of this section, $5,000,000 for the fiscal year ending June 30, 1974, $30,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976.

"'CONSTRUCTION LOANS

"'SEC. 1206. (a) The Secretary may make loans, subject to the general provisions of this title, to any public or private nonprofit health maintenance organization, or any public or private nonprofit agency, organization, or institution intending to become a health maintenance organization, to assist it in meeting the cost of construction of facilities for ambulatory care and transportation services for the provision of health services to its enrollees. The Secretary shall give special consideration to applications for loans for the acquisition or renovation of existing facilities. No loan under this section for any project may exceed 90 per centum of the cost of construction (as determined by the Secretary) of such project.

"'(b) There are authorized to be appropriated to carry out the provisions of this section, $10,000,000 for the fiscal year ending June 30, 1974, $20,000,000 for the fiscal year ending June 30, 1975, and $30,000,000 for the fiscal year ending June 30, 1976. Sums so appropriated, together with repayments of loans made under this section and any other receipts in connection with the program under this section, shall be placed in and constitute a revolving fund which shall be available to the Secretary without fiscal year limitation for use in making loans and other expenditures in the exercise of his functions under this section.

"'LOANS FOR INITIAL COSTS OF OPERATION

"'SEC. 1207. (a) The Secretary may make loans, subject to the general provisions of this title, to any public or private nonprofit health maintenance organization to assist it in meeting, for the period prescribed in subsection (b), a portion of its initial operating costs in excess of gross revenues determined under regulations of the Secretary.

"'(b) Loans under this section for initial costs of operation may be made only for the period beginning with the first day of the first month for which such a loan is made and ending with the close of three years after such first day; and such loans with respect to any project may not exceed 60 per centum of such costs of operation, for the first year after such first day; 40 per centum of such costs for the second year after such first day; and 20 per centum of such costs for the third year after such first day.

"'(c) There are authorized to be appropriated to carry out the provisions of this section $5,000,000 for the fiscal year ending June 30, 1974, $30,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976. Sums so appropriated, together with repayments of loans made under this section, shall be placed in and constitute a revolving fund which shall be available to the Secretary without fiscal year limitation for use in making loans and other expenditures in the exercise of his functions under this section.

"'PART B—SUPPPLEMENTAL HEALTH MAINTENANCE ORGANIZATIONS

"'SUPPLEMENTAL HEALTH MAINTENANCE ORGANIZATIONS

"'SEC. 1208. The Secretary may make grants and loans to supplemental health maintenance organizations as defined in section 1209 from funds appropriated to authorizations under part A of this Act for the purposes described in part A in amounts not to exceed 17.5 per centum of the amounts appropriated under such part: *Provided*, That the Secretary may make such grants and loans in excess of 17.5 per centum of such amounts from funds available during any fiscal year after all applications from qualified applicants under part A have been fully funded. Such grants and loans shall be for the same purposes, and subject to the same conditions and limitation as are applicable in the case of grants and loans to health maintenance organizations (as defined in section 1201).

"'DEFINITIONS

"'SEC. 1209. For the purposes of this part and part E—

"'(1) The term "supplemental health maintenance organization" means a public or private organization which—

"'(A) provides, either directly or through arrangements with others, health services to individuals enrolled with such organization on a per captia prepayment basis;

"'(B) provides, either directly, or through arrangements with others and through institutions, entities, and persons meeting the applicable requirements of section 1861 of the Social Security Act, all those health services which a defined population might reasonably require in order to be maintained in good health, including as a minimum emer-

gency care, inpatient hospital and physician care, ambulatory physician care, and outpatient preventive medical services;

"'(C) provides physicians' services (i) directly through physicians who are either employees or partners of such organization, or (ii) under arrangements with one or more groups of physicians (organized on a group practice or individual practice basis) under which each such group is reimbursed for its services primarily on the basis of an aggregate fixed sum or on a per capita basis, regardless of whether the individual physician members of any such group are paid on a fee-for-service or other basis;

"'(D) demonstrates to the satisfaction of the Secretary proof of financial responsibility and proof of capability to provide prompt, efficient and economical comprehensive health care services, including institutional services, efficiently, effectively, and economically and in a manner which assures continuity;

"'(E) has arrangements for assuring that the health services required by its enrollees are received promptly and appropriately and that the services which are received meet quality standards which it establishes in accordance with regulations of the Commission on Quality Health Care Assurance;

"'(F) is organized in such a manner as to emphasize local initiative and consumer and community involvement in the planning, development, and operation of such supplemental health maintenance organization and seek to insure prompt response to local initiative; and

"'(G) demonstrates to the satisfaction of the Secretary, in accordance with regulations of the Secretary, it has or will have a governing board which includes members who (i) have no financial interest in the organization other than as enrolled participants, (ii) are not receiving compensation for the provision of goods or services to the organization other than reasonable compensation for service as members of the governing board, and (iii) are neither employed by, nor members of the immediate family of, persons who have such an interest or are receiving such prohibited compensation.

"'PART B—GENERAL PROVISIONS

"'GRANTS AND LOANS

"'SEC. 1210. (a) Any loan by the Secretary shall bear interest at a rate comparable to the current legal rate of interest prevailing with respect to loans which are guaranteed under section 1211. No payment of principal on a loan shall be required for the first five years after such loan is made.

"'(b) No such loan shall be made unless—

"'(1) the Secretary is reasonably satisfied that the applicant therefor will be able to make payments of principal and interest thereon when due, and

"'(2) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project with respect to which such loan is requested.

"'(c) Any such loan shall have such security, have such maturity date, be repayable in such installments, and be subject to such other terms and conditions (including provisions for recovery in case of default) as the Secretary determines to be necessary to carry out the purposes of this title while adequately protecting the financial interests of the United States.

"'(d) No such loan shall have a term in excess of fifteen years.

"'(e) The Secretary may, for good cause, waive any right of recovery which he has by reason of the failure of a public organization to make payment and interest on a loan under this section.

"'LOAN GUARANTEES AND INTEREST SUBSIDIES

"'SEC. 1211. (a) In order to assist (1) private health maintenance organizations and health service organizations (or entities intending to become either), to carry out construction projects for ambulatory care facilities and transportation services and in the case of health service organizations communication services to be used by it for the provision of health services to its enrollees, to meet their initial development costs (for not more than three years) or to meet their cost of operation (for not more than three years), (2) university health centers, regional medical programs, and other private nonprofit provider groups in the development of area health education and service centers, and to provide working capital for the operation of such area health education and service centers as well as to subsidize the difference between income and operating expenditures, the Secretary, during the period beginning January 1, 1974, and ending with the close of June 30, 1976, may, in accordance with the provisions of this section, and subject to the general provisions of this Act (A) guarantee to non-Federal lenders making loans to such organizations for such purposes, payment of principal of and interest on such loans which are approved under this section, and (B) in the case of nonprofit health maintenance or supplemental health maintenance organizations, pay to the holder of such loans (and for and on behalf of the organization which received such loan) amounts sufficient (not to exceed 3 per centum per annum) to reduce the net effective interest rate otherwise payable on such loan. No loan guarantee or interest subsidy under this section may, except under such special circumstances and under such conditions as are prescribed by regulations, apply to or be made for an amount which, when added to any grant or other loan under this or any other law of the United States, is—

"'(i) with respect to any construction, in excess of 90 per centum of the cost of such construction,

"'(ii) with respect to initial development costs, in excess of 90 per centum of such costs, or

"'(iii) with respect to initial operating costs, in excess of 90 per centum of such costs.

No such loan guarantee may apply to more than 90 per centum of the loss of principal and interest on the loan.

"'(b) The Secretary may not approve the application of a health maintenance organization, supplemental health maintenance organization, university health center, regional medical program, or other nonprofit unless—

"'(1) he determines, in the case of a loan for which a guarantee or an interest subsidy payment is sought, that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States;

"'(2) the term of a loan for which a guarantee and interest subsidy is sought does not exceed twenty-five years if for construction, or fifteen years if for operating costs, or such shorter period as the Secretary prescribes; and

"'(3) he obtains assurances that the applicant will keep such records, and afford such access thereto, and make such reports, in such form and containing such information, as the Secretary may reasonably require.

"'(c) Guarantees of loans and interest subsidy payments under this section shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this section will be achieved, and, to the extent permitted by subsection (e), any of such terms and conditions may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

"'(d) In the case of any loan guaranteed under this section, the United States shall be entitled to recover from the applicant the amount of any payments made pursuant to such guarantee unless the Secretary, for good cause, waives his right of recovery, and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"'(e) Any guarantee of a loan under this section shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person.

"'(f)(1) There is established in the Treasury a Health Maintenance Organization, and Supplemental Health Maintenance Organization Loan Guarantee and Interest Subsidy Fund (hereafter in this section referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts (A) to enable him to discharge his responsibilities under guarantees issued by him under this title, and (B) for interest subsidy payments authorized by this title. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required by the fund. To the extent authorized from time to time in appropriation Acts there shall be deposited in the fund amounts received by the Secretary as interest payments or repayments of principal on loans and any other moneys, property, or assets derived by him from his operations under this title, including any moneys derived from the sale of assets.

"'(2) If at any time the moneys in the fund are insufficient to enable the Secretary to discharge his responsibilities under this title to meet the obligations under guarantees of loans under subsection (a) or to make interest subsidy payments on such loans, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of

such notes and obligations shall be made by the Secretary from such fund.

"'(g) (1) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriation Acts.

"'(2) In any fiscal year no loan guarantee or agreement to make interest subsidy payments may be entered into under this title if the making of such guarantee of the entering into of such agreement would cause the cumulative total of—

"'(A) the principal of the loans guaranteed under this title in such fiscal year, and

"'(B) the principal of the loans for which no guarantee has been made under this title and with respect to which an agreement to make interest subsidy payments is entered into under this title in such fiscal year, to exceed the amount of grants obligated under this Act in such fiscal year; except that this paragraph shall not apply if the amount of grant funds obligated under this title in such fiscal year equals the sums appropriated for such fiscal year under this title.

"'APPLICATION REQUIREMENTS

"'SEC. 1212. (a) No grant, contract, loan, loan guarantee, or interest subsidy may be made under this title unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, consistent with subsection (b)(1), as the Secretary shall by regulation prescribe.

"'(b)(1) An application for a grant, loan, loan guarantee, or interest subsidy under this title shall include to such extent, in such manner and among such other matters as the Secretary may by regulation prescribe, satisfactory specification of the existing or anticipated (A) population group or groups to be served by the existing or proposed health maintenance organization or supplemental health maintenance organization described in the application, (B) enrollment for such organization, (C) methods, terms, and periods for the enrollment of enrollees, (D) nature and estimated costs per enrollee of the health care and educational services to be provided, (E) sources of professional services, and organizational arrangements for providing health care and educational services, (F) organizational arrangements for an ongoing quality assurance program in conformance with the requirements of the Commission on Quality Health Care Assurance, (G) sources of prepayment and other forms of payment for the services to be provided, (H) facilities available for an additional capital investments and sources of financing therefor, required to provide the level and scope of services proposed, (I) administrative, managerial, and financial arrangements and capabilities of such organization, (J) role for enrollees in the planning and policymaking for such organization, (K) grievance procedures for enrollees, staff, and employees, and (L) evaluation or evaluations of the support for and acceptance of such organization by the population to be served, the sources of operating support, and the professional groups to be involved or who would be affected thereby. An organization making multiple applications for assistance under this title simultaneously or over the course of time shall not be required to submit duplicate or redundant information but shall be required to update the description of the existing or proposed organization in such manner and with such frequency as the Secretary may by regulation prescribe.

"'(2) Upon completion of assistance under this title, the receipt of assistance shall make a full and complete report to the Secretary, in such manner as he may by regulation prescribe. Each such report shall include, among such other matters as the Secretary may by regulation prescribe, descriptions of plans, developments, and operations in those areas enumerated in paragraph (1) for specification in applications for assistance.

"'(c) A health maintenance organization, or supplemental health maintenance organization, other nonprofit providers, regional medical programs or university health center receiving assistance under this title shall submit to the Secretary as a condition of its continued assistance, satisfactory assurances, in accordance with such regulations as the Secretary shall prescribe, including but not limited to the following: (1) financial responsibility, and (2) development and operation consistent with the terms of this title and the plans contained in such organization's application or applications for assistance. As used in this subsection the term "financial responsibility" means the demonstrated capability of adequately carry out the purposes of the project for which the original assistance was granted.

"'(d)(1) An application for a grant, loan, loan guarantee, or interest subsidy under this title shall contain assurances satisfactory to the Secretary that the applicant will, in accordance with such criteria as the Secretary shall by regulation prescribe, enroll the maximum number of persons that its available and potential resources (as determined under regulations of the Secretary) will enable it to effectively serve; except that the applicant shall enroll no more than 50 per centum of its enrollees from medically underserved areas except in rural areas as designated by the Secretary.

"'(2) No grant may be made and no loan, loan guarantee, or interest subsidy payment may be made under this title unless the applicant demonstrates to the satisfaction of the Secretary that the applicant will or has enrolled, and will maintain an enrollment of, the maximum number of persons that its available and potential resources (as determined under regulations of the Secretary) will enable it to effectively serve, except that the applicant shall enroll no more than 50 per centum of its enrollees from medically underserved areas except in rural areas as designated by the Secretary.

"'(e) The Secretary shall have the authority after a hearing on the record to terminate or cancel any grant, loan, loan guarantee, or interest subsidy to any recipient of assistance under this title which he determines is in substantial noncompliance with any material provision of this title or after notice from the Commission on Quality Health Care Assurance that such organization has had its certificate of compliance suspended or revoked.

"'(f) Effective two years after the date of enactment of this Act, no assistance shall be given under this Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, to a provider of health care unless such provider holds a valid certificate of compliance under section 1302.

"'(g) (1) The Secretary may not approve an application submitted under section 1203, 1204, 1205, 1206, or 1207 unless the section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) the area to be served by the health maintenance organization, or supplemental health maintenance organization for which such application is submitted, or if there is no such agency, the section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) such area, has, in accordance with regulations of the Secretary, been provided an opportunity to review the application and to submit to the Secretary for his consideration its recommendations respecting approval of the application. If under applicable State law such an application may not be submitted without the approval of the section 314(b) areawide health planning agency or the section 314(a) State health planning agency, the Secretary may not approve such an application unless the required approval has been obtained.

"'(2) The Secretary shall by regulation establish standards and procedures for section 314(b) areawide health planning agencies and section 314(a) State health planning agencies to follow in reviewing and commenting on applications for assistance for health maintenance organizations.

"' If during any fiscal year there are insufficient funds for funding all of the approved applications for assistance under this title, the Secretary shall give priority to those applications which he determines shall be most likely to be economically viable.

"'EFFECT ON STATE LAW

"'SEC. 1213. (a) Notwithstanding any provisions of State law which—

"'(1) require approval of a health maintenance organization, supplemental health maintenance organization or health service organization by a medical society;

"'(2) require that physicians constitute all or a majority of the governing body of a health maintenance organization or supplemental health maintenance organization;

"'(3) require that all physicians or a percentage of physicians in the local medical society be permitted to participate in rendering the services of the organization;

"'(4) require that such organization submit to regulations as an insurer of health care services;

"'(5) require that only unincorporated individuals or associations or partnerships may provide health care services;

"'(6) prohibit advertising by a professional group for recruitment of enrollees; or

"'(7) impose requirements or restrictions on a health maintenance organization or supplemental health maintenance organization in a manner, determined by the Secretary, to be incompatible with this title,

a health maintenance organization or a supplemental health maintenance organization, or other providers of health care receiving Quality Health Care Initiative Awards under this title, who otherwise conform with the laws for incorporation and laws for licensing of physicians, osteopaths, and dentists in such State shall be allowed to provide health care services in such State in accordance with the provisions of this title.

"'QUALITY HEALTH-CARE INITIATIVE AWARDS

"'SEC. 1214. (a) Every provider of health care which is certified by the Commission on Quality Health Care Assurance as maintaining quality control standards in compliance with the requirements set by the Commission on Quality Health Care Assurance shall be entitled to an annual payment in an amount equal to the administrative costs incurred (as allowed by the Commission) in complying with the requirements of the Commission or otherwise demonstrating in accordance with professional standards the effectiveness and utility of health maintenance organizations, and supplemental health maintenance organizations. Any provider of health care, whether or not subject to the provisions of this Act, may apply to the Commission for certification of compliance under section 1302.

"'(b) There is authorized to be appropriated to carry out the provisions of this section $25,000,000 for the fiscal year ending June 30, 1974; $50,000,000 for the fiscal year ending June 30, 1975; and $75,000,000 for the fiscal year ending June 30, 1976.

"'LABOR STANDARDS

"'SEC. 1215. All laborers and mechanics employed by contractors or subcontractors

on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934.

"'OPEN ENROLLMENT WAIVER

"'SEC. 1216. Where a health maintenance or supplemental health maintenance organization demonstrates to the satisfaction of the Secretary that it has a disproportionate share of high-risk enrollees and by maintaining open enrollment it would be required to enroll a nonrepresentative cross section of the community in which it provides services, to the extent that financing is available and people are willing to enroll, and the enrollment of such disproportionate share of high-risk enrollees will jeopardize its economic viability, the Secretary may waive such requirement for open enrollment for a period of not more than three years. A health maintenance or supplemental health maintenance organization may receive more than one waiver.

"'ACCESS TO RECORDS

"'SEC. 1217. (a) Each recipient of Federal funds under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such funds, the total cost of the undertaking in connection with which such funds are given or used, the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"'(b) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of Federal funds under this Act.

"'COMPRENHENSIVE SERVICES PHASE-IN

"'SEC. 1218. The Secretary may grant a waiver to an applicant for assistance under this title, with respect to the provision of any comprehensive health service set forth pursuant to section 1201 (2)(A), (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), or (L) where he determines that—

"'(1) such service cannot be provided by the applicant solely because the required health manpower, facilities or equipment to provide such service is not available; and

"'(2) the applicant has a feasible plan to provide such service at the earliest possible date, such date not to exceed three years from the date assistance under this title is first granted to such applicant.

"'COMPREHENSIVE HEALTH SERVICES FOR INDIANS AND MIGRANT WORKERS

"'SEC. 1219. The Secretary is authorized to contract with health maintenance organizations, supplemental health maintenance organizations, or health service organizations to provide health services to individuals who are eligible for such services from the Indian Health Service (with the consent of the Indian people served) or under section 310 of this Act.

"'PART C—SPECIAL PROJECT GRANTS TO FACILITATE HEALTH SERVICES IN NONMETROPOLITAN AREAS

"'SEC. 1220. (a) The Secretary is authorized to make grants to or contracts with any public or nonprofit private entity (which otherwise may not be eligible for grants or assistance under this title) to study, initiate, and evaluate projects for the delivery, or to facilitate the delivery, in nonmetropolitan areas of comprehensive health services on the prepaid basis.'

"SEC. 404. The Public Health Service Act, as amended by this Act, is further amended by inserting after title XII the following new title:

"'TITLE XII—COMMISSION ON QUALITY HEALTH CARE ASSURANCE

"'PART A—COMMISSION ON QUALITY HEALTH CARE ASSURANCE

"'ESTABLISHMENT OF COMMISSION

"'SEC. 1301. (a) There is hereby established in the Department of Health, Education, and Welfare a Commission on Quality Health Care Assurance.

"'(b) The Commission shall be composed of eleven members to be appointed by the President and with the advice and consent of the Senate from among individuals who by virtue of their service, experience, or education are especially qualified to serve on the Commission. In making such appointments the President shall appoint individuals who are representative of the health care delivery industry, private organizations engaged in developing health care quality standards which may be applicable on a national basis, and consumers not related to the delivery of health care. The terms of office of each member of the Commission shall be

"'(1) the members first appointed shall serve, as designated by the President, three for a term of one year, two for a term of two years, two for a term of three years, two for a term of four years, and two for a term of five years;

"'(2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed; and

"'(3) a member shall be eligible for reappointment for one additional term.

"'(c) The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Commission.

"'(d) Any vacancy in the Commission shall not affect its powers and six members of the Commission shall constitute a quorum.

"'(e) Four members of the Commission shall be consumers not related to the delivery of health care.

"'DUTIES OF THE COMMISSION

"'SEC. 1302. (a) The Commission shall—

"'(1) promulgate standards for qualifications of personnel, composition of medical groups, and other characteristics dealing with the adequacy of facilities and equipment;

"'(2) conduct such research and experimental programs as are determined necessary for the development of—

"'(A) criteria for new and improved quality assurance systems, and

"'(B) norms, with regard to processes, utilization characteristics, and outcomes;

"'(3) require and monitor, in accordance with criteria established based upon findings under paragraph (2), quality assurance systems for health maintenance organizations, supplemental health maintenance organizations, health service organizations, and other providers of health care subject to the provisions of this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 which shall be designed to—

"'(A) improve as well as assess the quality of health care;

"'(B) evaluate the inputs, processes, utilization characteristics, and outcomes of health care as related to individuals and population groups, and establish relationships between inputs, processes, utilization characteristics, and outcomes;

"'(C) concentrate on those illnesses which have relatively high incidence in the population and which are particularly influenced by medical treatment, rather than on unusual illnesses or conditions whose course is little influenced by therapy;

"'(D) improve as well as assesses the accessibility, availability, and acceptability of health care provided by health maintenance organizations, supplemental health maintenance organizations, and health service organizations, or other providers of health care;

"'(E) develop procedures for such systems to report through the policymaking body of the health maintenance or supplemental health maintenance, organization (or as appropriate in the case of any other provider of health care) to the membership and to the Commission on Quality Health Care Assurance; and

"'(F) take into account the need for inclusion of consumers as well as the several health care disciplines in the decisionmaking membership of the system;

"'(4) certificates of compliance to providers of health care certifying that such providers maintain an approved quality assurance system and are otherwise conforming with requirements published under this section;

"'(5) after a hearing on the record, revoke or suspend such certificate where it determines that such provider has significantly deviated from the standards approved quality assurance system, or the norms published pursuant to this section unless such deviation is justified to the satisfaction of the Commission:

"'(6) monitor reports by health care providers covered by this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, for the purpose of assuring that the performance of such health care providers is in conformance with the approved quality assurance system and norms published under this section;

"'(7) publish objective statistical descriptions of norms accumulated through experience and results of programs conducted under this Act and the Mental Retardation Facilities and Community Mental Health Care Centers Construction Act of 1963;

"'(8) conduct a program of research and development which shall have the objectives of—

"'(A) improving the technology of assessing the quality of health care with emphasis on the outcomes of health care;

"'(B) assessing and comparing the quality of health care provided under different delivery system arrangements;

"'(C) analyzing the effects providing information to consumers and improvement in the methods of information dissemination;

"'(D) analyzing the impact of its quality assurance program upon the quality of health care for the American people; and

"'(E) coordinating the collection, assimilation and cataloging of existing information regarding quality health care assurance programs of Federal, State, and local agencies and their relationships with one another, with due regard for the protection of the confidential nature of the doctor-patient relationship;

"'(9) collect, summarize, and distribute information regarding the impact of medical services and the health status of the population of the United States;

"'(10) provide technical assistance to providers of health care in the development of quality control programs;

"'(11) study the levels, costs, and quality of health care under health care programs of the Federal Government;

"'(12) administer any medical malpractice reinsurance program hereinafter established;

"'(13) analyze the need for standardization of medical record information and facili-

tate the development of a system of standard medical reference mechanisms;

"'(14) prescribe a schedule of reasonable contingent fees for attorneys representing claimants in proceedings under section 1309; and

"'(15) annually report to the President and to the Congress on the conduct of activities under this title (including results of studies conducted under paragraph (11)) together with such recommendations for additional legislation as the Commission may determine appropriate.

"'(b) In developing quality health care assurance system criteria the Commission's consideration shall include but not be limited to existing State regulations, such standards as are in effect for Federal health agencies and analysis of the results of any medical malpractice reinsurance program and the results of arbitration procedures.

"'ADMINISTRATIVE POWERS

"'SEC. 1303. (a) In order to carry out the provisions of this Act the Commission is authorized to—

"'(1) appoint and fix the compensation of personnel of the Commission in accordance with the provisions of title 5, United States Code;

"'(2) make, promulgate, issue, rescind, and amend rules and regulations as may be necessary to carry out the functions vested in the Commission and delegate authority to any officer or employee;

"'(3) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain, research and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Commission deems necessary; to acquire by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Commission for a period not to exceed ten years without regard to the Act of March 3, 1877 (40 U.S.C. 34);

"'(4) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

"'(5) appoint one or more advisory committees (including a committee for the preparation and analysis of statistics) composed of such private citizens and officials of Federal, State, and local governments as it deems desirable, to advise the Commission with respect to its functions under this Act;

"'(6) utilize, with their consent the services, equipment, personnel information, and facilities of other Federal, State, and local public agencies with or without reimbursement therefor;

"'(7) accept voluntary and uncompensated services, notwithstanding the provisions of section 665(b) of title 31, United States Code;

"'(8) accept unconditional gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible; and

"'(9) take such actions as may be required for the accomplishment of the objectives of the Commission.

"'(b) Upon request made by the Commission each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information (including suggestions, estimates and statistics) available to the greatest practicable extent consistent with other laws to the Commission in the performance of its functions with or without reimbursement. Where the Commission determines that such services, equipment, personnel, facilities, and information cannot be made available for utilization in a manner which would enable it to expeditiously perform its duties under this Act, the Commission may establish where necessary the programs necessary to accomplish its tasks;

"'(c) Each member of a committee appointed pursuant to paragraph (5) of subsection (a) of this section who is not an officer or employee of the Federal Government shall receive an amount equal to the maximum daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, for each day he is engaged in the actual performance of his duties (including traveltime) as a member of a committee. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties;

"'(d) The Chairman shall be the chief executive and the administrative officer of the Commission and shall exercise the responsibility of the Commission with respect to—

"'(1) the appointment and supervision of personnel employed by the Commission;

"'(2) the distribution of jobs among the personnel of the Commission; and

"'(3) the use and expenditure of funds.

"'COMPENSATION

"'SEC. 1304. (a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(59) Chairman, Commission on Quality Health Care Assurance.'

"'(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"'(97) Members, Commission on Quality Health Care Assurance (10).

"'(98) General Counsel, Commission on Quality Health Care Assurance.'

"'APPLICABILITY OF COMMISSION REQUIREMENTS

"'SEC. 1305. (a) Except as provided in subsection (b) the requirements established by the Commission pursuant to section 1302 shall apply to any provider of health care receiving assistance under this Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 after the date of enactment of this title.

"'(b) Any provider covered under this Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, may apply to the Commission for a temporary order granting a variance from any requirement or any provision thereof promulgated under section 1302 of this Act. Such temporary order shall be granted only if the provider files an application which establishes that—

"'(1) the provider is unable to comply with a requirement by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with any requirement or because necessary construction, alteration, or modernization of facilities cannot be completed by its effective date; and

"'(2) the provider has an effective program for coming into compliance with any requirement as quickly as possible with adequate interim safeguards for the protection of consumers of health care.

"'(c) The Commission is authorized to grant a variance from any of its requirements or portion thereof whenever it determines or the Secretary of Health, Education, and Welfare certifies that such a variance is necessary to permit a provider to participate in a project approved by him designed to validate new and improved techniques of health care delivery systems.

"'REPORTS AND MAINTENANCE OF RECORDS

"'SEC. 1306. (a) Each provider, covered under this title, shall make, keep, and preserve, and make available to the Commission and the Secretary of Health, Education, and Welfare, such records regarding activities governed by this title as the Commission, in cooperation with the Secretary of Health, Education, and Welfare, shall prescribe.

"'(b) The Commission shall prescribe rules and regulations as may be necessary with regard to inspection of the records and facilities of a provider.

"'DISCLOSURE TO CONSUMERS OF HEALTH CARE SERVICES

"'SEC. 1307. (a) A description of any health care plan covered by this title shall be published as required herein within ninety days after the establishment of such plan or when such plan becomes subject to this title.

"'(b) A description of the plan shall be comprehensive and shall include, in a manner designed to be understood by the average enrollee, the following:

"'(1) fees and prices;

"'(2) scope of services included in benefit packages;

"'(3) accessibility and availability of services including the location of the facilities, equipment available, hours of operation, practitioners by type and location, and amenities;

"'(4) the name and type of administration of the plan; and

"'(5) a statement of certification by the Commission.

"'(d) The Commission shall monitor the provision of information by providers of care as required by this section. In any case in which information is disclosed or disseminated under this title and is subsequently found to be insufficient, inaccurate, or inaccurately disseminated the Commission shall take such action as is necessary to assure a full retraction of the inaccurate information together with a statement of new data in a manner similar to the initial disclosure or dissemination of such information.

"'(e) The disclosure must also include procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims which are denied in whole or in part.

"'(f) Every provider shall furnish a copy of the plan description (including amendments or modifications thereto) described in subsection (b), to every enrollee upon his enrollment in the plan, and cause the same to be published, in a manner prescribed by the Commission, to the general public.

"'PENALTIES

"'SEC. 1308. (a)(1) Whenever the Commission after reasonable notice and opportunity for hearing to the provider finds that the provider has significantly deviated from the approved quality assurance system or is engaged in practices which significantly deviate from national or regional norms as determined by the Commission, the Commission shall notify the provider, and the Secretary of Health, Education, and Welfare that such provider shall be ineligible to participate in assistance under this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 and that the certificate of approval has been suspended until such time as the provider is found to be in compliance with the requirements established under section 1302. Hearings conducted under this section shall be held, where practicable, in a location convenient to the provider of health care.

"'(2) Providers of health care, who have had their certificate suspended for a period, which the Commission determines to be unreasonable, shall have their certificate revoked and shall be liable for the repayment of part or all amounts received under this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963.

"'(3) The Commission is authorized to make arrangements with providers of health care who have had their certificates revoked, for reimbursement of amounts received under this Act and the Mental Retardation facilities and community Mental Health Centers Construction Act of 1963, including deferred payments on such terms and for such periods as are deemed equitable and appropriate.

"'(b) Any person who knowingly makes any false statement, representation, or certification on any application, record, report, plan or other document filed or required to be maintained pursuant to this Act shall upon conviction be punished by a fine of not more than $10,000 or by imprisonment of not more than six months or by both.

"'ARBITRATION

"'SEC. 1309. (a) A provider of health care that possesses a valid certificate of compliance issued under section 1302 may enter into a program for the equitable and expeditious handling of malpractice claims which may arise out of care and treatment of patients. Such programs shall be based upon agreements between the patients and the providers of health care to submit all disputes, not settled to the satisfaction of both parties, to binding arbitration in order to gain the benefits of such programs for patients and providers. Records of all such settlements shall be kept by each provider of health care, and submitted to the Commission in such manner as it shall prescribe.

"'(b) An agreement to submit to binding arbitration under subsection (a) must be valid in the jurisdiction in which such agreement is made and shall provide for the selection of arbitrators in accordance with rules and regulations promulgated by the Commission. For those providers who shall establish arbitration programs as specified in this section, title 9 of the United States Code shall apply to such arbitration programs if the State or States in which the provider is located has not enacted legislation providing for the finality of arbitration decisions, or for parties to enter into agreements to arbitrate prior to a dispute.

"'(c) Written findings of fact and conclusions of law shall be prepared for each arbitration proceeding held under this section. In each case the findings shall be certified by the arbitrator to the Commission. The Commission shall develop a systematic codification of all findings of arbitration proceedings undertaken pursuant to this section and shall publish such findings at least annually or more frequently at the discretion of the Commission. The Commission shall certify all findings of arbitration proceedings undertaken pursuant to this section to all appropriate State or local licensing or disciplinary boards for each such arbitration procedure under the territorial jurisdiction of such board.

"'(d)(1) Every attorney who, in connection with any proceedings under this section for personal injuries or for death or for loss of services resulting from personal injury proximately caused by medical malpractice, accepts a retainer or enters into an agreement, express or implied, for compensation for services rendered or to be rendered in such proceedings whereby his compensation is to be dependent or contingent in whole or in part upon the successful prosecution or settlement thereof, shall, within thirty days from the date of any such retainer or agreement of compensation, sign personally and file with the Commission a retainer statement of such retainer or agreement of compensation containing such information as the Commission shall require.

"'(2) An attorney retained by another attorney on a contingent fee basis as trial or appeal counsel or to assist in the preparation, investigation, or settlement of any such proceeding, shall, within thirty days from the date of such retainer, sign personally and file with the Commission a retainer statement of such retainer or agreement of compensation containing such information as the Commission shall require.

"'(3) A closing statement shall be filed with the Commission with every proceeding in which a retainer statement is required containing such information as the Commissioner shall require.

"'(4) All statements of retainer or closing statements filed with the Commission shall be confidential, and the information therein contained shall not be divulged or made available for inspection or examination except upon written order of the Chairman or the General Counsel of the Commission.

"'(5) Any attorney who charges or collects, for services rendered in connection with any proceedings described in this subsection, any fee in excess of that allowed, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"'PUBLICATION OF CRITERIA AND NORMS

"'SEC. 1310. (a) The Commission may, by rule, promulgate, modify, or revoke any quality assurance system criterion or norm in the following manner:

"'(1) whenever the Commission upon the basis of information submitted to it in writing by an interested person, a nationally recognized standard-producing organization, the Secretary of Health, Education, and Welfare, or a State or political subdivision, or on the basis of information developed by the Commission, or otherwise available to it, determines that a rule should be promulgated in order to serve the objectives of this title, the Commission shall publish such proposed rule promulgating, modifying, or revoking a standard or criterion for a quality health care assurance system or norm in the Federal Register, and shall afford interested persons a period of sixty days after publication to submit written data or comments.

"'(2) on or before the last day of the period provided for the submission of written data or comments, any interested person may file with the Commission written objections to the proposed rule stating the grounds therefor and requesting a public hearing on such objections. Within sixty days after the last day for filing such objections the Commission shall publish in the Federal Register a notice specifying the criteria for quality health care assurance systems or norms to which objections have been filed and a hearing request and specifying a time and place for such hearing. Hearings conducted under this section shall be held, where practicable, in a location convenient to the person filing such objection.

"'(3) Within sixty days after the expiration of the period provided for the submission of written data or comments or within sixty days after the completion of any hearing, whichever is later, the Commission shall issue and publish in the Federal Register a rule promulgating, modifying, or revoking standards, criteria for quality health care assurance systems or norms, or making a determination that a rule should not be issued. Such a rule may contain a provision delaying its effective date and such period (not in excess of ninety days) as the Commission determines may be necessary to insure that affected persons will be informed of the existence of the criteria or norm and of its determinations and that they are given an opportunity to familiarize themselves with the existence of the requirements of such criteria or norm.

"'(b) Any person who may be adversely affected by the promulgation of a rule issued respecting criteria or norms under this section may at any time prior to the ninetieth day after such criteria or norm is promulgated, file a petition challenging the validity of such criterion or norm with the United States district court for the district where such person resides or has his principal place of business for a judicial review of such criterion or norm. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commission. The filing of such petition shall not, unless otherwise stated by the court, operate as a stay of the criterion or norm. The determinations of the Commission shall be conclusive if supported by the substantial evidence in the record considered as a whole.

"'(c)(1) In the case of establishing criteria for the assimilation of objective statistical material required for the publication of norms, the Commission shall hold hearings only when it determines such hearing to be necessary.

"'(2) The Commission shall publish in the Federal Register a summary and basis for the establishment of the criteria required by paragraph (1).

"'(d) The Commission in compiling information for setting the requirements for this title shall solicit views and information from concerned entities.

"'STATE JURISDICTION AND STATE PLANS

"'SEC. 1311. (a) Nothing in this Act shall prevent any State agency or court from asserting jurisdiction under State law over any health issue with respect to which no standard, criterion, or norm is in effect under section 1302 of this Act.

"'(b) Any State which at any time desires to assume responsibility for the development and enforcement of health standards, criteria, or norms relating to any health issue with respect to which a Federal standard, criterion, or norm has been promulgated under section 1302, shall submit to the Commission a State plan for the development of such standards, criteria, or norms and their enforcement.

"'(c) The Commission shall approve the plan submitted by a State under subsection (b) or any modification thereof only if such plan—

"'(1) designates a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State;

"'(2) provides for the development and enforcement of health standards, criteria, or norms relating to one or more health issues which standards, criteria, or norms (and the enforcement of which) will be no less stringent than the standards, criteria, or norms promulgated under section 1302 which relate to the same health issues;

"'(3) provides for a right to entry and inspection of all premises of providers of health care subject to the Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 which includes a prohibition on advance notice of inspections;

"'(4) contains satisfactory assurances that such agency or agencies have or will have the legal authority and qualified personnel necessary for the enforcement of such standards, criteria, and norms;

"'(5) gives satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards, criteria, and norms;

"'(6) contains satisfactory assurances that such State will, to the extent permitted by its law, establish and maintain an effective and comprehensive health program applicable to all providers of health care of the State and its political subdivisions, which program is as effective as the standards contained in an approved State plan;

"'(7) requires providers of health care in the State to make reports to the Commission in the same manner and to the same extent as if the State plan were not in effect; and

"'(8) provides that the State agency will

make such reports to the Commission in such form and containing such information as the Commission shall from time to time require.

"'(d) If the Commission rejects a plan submitted under subsection (b), it shall afford the State submitting the plan reasonable notice and opportunity for a hearing before so doing.

"'(e) After the Commission approves a State plan submitted under subsection (b), it may but shall not be required to, exercise its authority with respect to comparable standards, criteria, or norms promulgated under section 1302, for the period specified in the next sentence. The Commission may exercise the authority referred to above until it determines, on the basis of actual operations under the State plan, that the standards, criterions, or norms set forth in subsection (c) are being applied, but it shall not make such determination for at least three years after the plan's approval under subsection (c).

"'(f) The Commission shall, on the basis of reports submitted by the State agency and its own inspections, make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Whenever the Commission finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan (or any assurance contained therein), it shall notify the State agency of its withdrawal of approval of such plan and upon receipt of such notice, such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce standards under the plan whenever the issues involved do not relate the reasons for the withdrawal of the plan.

"'(g) The State may obtain a review of a decision of the Commission withdrawing approval of or rejecting its plan by the United States court of appeals for the circuit in which the State is located by filing in such court within thirty days following receipt of notice of such decision a petition to modify or set aside in whole or in part of the action of the Commission. A copy of such petition shall forthwith be served upon the Commission, and thereupon the Commission shall certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless the court finds that the Commission's decision in rejecting a proposed State plan or withdrawing its approval of such a plan is not supported by substantial evidence, the court shall affirm the Commission's decision. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"'(h) The Commission may enter into an agreement with a State under which the State will be permitted to continue to enforce one or more health standards, criteria, or norms in effect in such State until final action is taken by the Commission with respect to a plan submitted by a State under subsection (b) of this section, or two years from the date of enactment of this title, whichever is earlier.

"'PROCEDURES TO COUNTERACT IMMINENT DANGERS

"'SEC. 1312. (a) The United States district courts shall have jurisdiction, upon petition of the Commission, to restrain any conditions or practices by a provider of health care which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this title. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct, or remove such imminent danger or to maintain the capacity of a continuous process operation to resume normal operations without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner.

"'(h) Upon the filing of any such petition the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order pending the outcome of an enforcement proceeding pursuant to this title. The proceeding shall be as provided by rule 65 of the Federal Rules of Civil Procedure, except that no temporary restraining order issued without notice shall be effective for a period longer than five days.

"'(c) Whenever and as soon as the Commission concludes that conditions or practices described in subsection (a) exist it shall inform the affected provider of health care of the danger and that it shall seek relief under this section.

"'(d) If the Commission arbitrarily or capriciously fails to seek relief under this section, any person who may be injured by reason of such failure, or the representative of such person might bring an action against the Commission in the United States district court for the district in which the imminent danger is alleged to exist or the provider has its principal office, or in the United States District Court for the District of Columbia, for a writ of mandamas to compel the Commission to seek such an order and for such further relief as may be appropriate.

"'DEFINITIONS

"'SEC. 1313. For the purposes of this title, the term—

"'(1) "input measure" means assessment based on the qualifications of personnel, facilities, and equipment permitted to provide medical care;

"'(2) "process measure" means assessment based upon the conformance of medical decisions and action taken in actual episodes of care to some defined standards of medical practice;

"'(3) "utilization characteristics" means those characteristics giving information concerning the rates of usage of components of the health care system such as the length of hospital stays, the number of doctor-patient contracts, and the number of hospital admissions in a year;

"'(4) "outcome measure" means assessment of care based upon health of patients during and particularly at the conclusion of episodes of care. Standards for clinical outcome should be based solely on the results of health care;

"'(5) "Commission" means the Commission on Quality Health Care Assurance;

"'(6) "reinsurance program" means the Federal Medical Malpractice Reinsurance Program established under part B of this title; and

"'(7) "norm" means a statistical range which reflects the parameters of acceptable quality health care practices existing at the time such norm is promulgated.

"'AUTHORIZATION OF APPROPRIATIONS

"'SEC. 1314. There are authorized to be appropriated for the carrying out of the provisions of this part $15,000,000 for the fiscal year ending June 30, 1974; the fiscal year ending June 30, 1975; and $70,000,000 for the fiscal year ending June 30, 1976.

"'CAPITATION GRANTS TO ENABLE HEALTH MAINTENANCE ORGANIZATIONS OR SUPPLEMENTAL HEALTH MAINTENANCE ORGANIZATIONS TO SERVE ALL PERSONS

"'SEC. 1315. (a)(1) The Secretary is authorized to determine how appropriations under this Act or funds otherwise authorized under law, can be utilized, to make annual grants to health maintenance organizations or supplemental health maintenance organizations serving persons who cannot meet the expenses of such organizations' premiums (excluding additional premiums for high option services). The amount of such annual grants being equal to the difference between the maximum amount (as determined by the Secretary) an enrollee could reasonably be expected to pay toward the health maintenance or supplemental health maintenance organization premium and the premium for membership enrollment in such health maintenance or supplemental health maintenance organization for each such person enrolled. A health maintenance or supplemental health maintenance organization shall be eligible for grants under this subsection only during the first three years of its operation.

"' (2) In determining the amount an enrollee could pay toward the premium, the Secretary shall consider all sources (including public sources) of income available to each such enrollee.

"'(3) Grants under this section would not exceed 25 per centum of the total premium receipts for such health maintenance or supplemental health maintenance organization for the next preceding year.

"'(b)(1) Where a health maintenance or supplemental health maintenance organization proposes an increase in its premium rate and the Secretary determines that such an increase is due in whole or in part to fulfillment of the requirement for open enrollment, in that such organization has in its enrolled population a disproportionate number of high-risk enrollees, the Secretary is authorized to determine how appropriations under this Act or funds available to the Social Security Administration, as amended, can be utilized to make annual grants to such organization equal to an amount that would eliminate the need for that part of the proposed premium increase caused by such disproportionate number of high-risk enrollees in such organization. A health maintenance or supplemental health maintenance organization shall be eligible for grants under this subsection only during the first three years of its operation.

"'(2) The Secretary shall report to Congress no later than ten days after the submittal of the budget request for each year with regard to needed legislative authority, if any, to provide capitation grants to enable health maintenance organizations or supplemental health maintenance organizations to serve all persons.'

"TECHNICAL AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

"SEC. 405. (a) Section 1 of the Public Health Service Act is amended by striking out 'titles I to X' and inserting in lieu thereof 'titles I, II and XV'.

"(b) The Act of July 1, 1944 (58 Stat. 682), is further amended by renumbering title XI (as in effect prior to the date of enactment of this Act) as title XV and by renumbering sections 1101 through 1114 (as in effect prior to such date) and references thereto as sections 1501 through 1514, respectively.

"(c) Sections 767, 768, 769, 769A, and 769B of the Public Health Service Act (added by section 107 of Public Law 92–157) are redesignated as sections 769, 769A, 769B, 769C, and 769D, respectively."

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AMENDMENT No. 123

Commencing on page 61, strike line 1 through line 16 on page 70 and insert in lieu thereof the following:

"TITLE IV—HEALTH MAINTENANCE ORGANIZATIONS

"SHORT TITLE

"SEC. 401. This title may be cited as the 'Health Maintenance Organization Act of 1973'.

"CONGRESSIONAL FINDINGS

"SEC. 402. (a) The Congress finds that—

"(1) the medical care system is not organized in a manner which encourages the provision of medical care at reasonable costs;

"(2) the medical care system is oriented toward providing care once a health need has occurred rather than toward providing health maintenance and preventative health services; and

"(3) there is a serious maldistribution of medical care resources which has resulted in inadequate access to medical care in both inner city and rural areas.

"(b) The purpose of this Act is to assist in remedying these deficiencies through encouraging the establishment and utilization of health maintenance organizations, particularly in medically underserved areas by improving the system for the delivery of health care through encouragement of any support for the planning, development, and initial operation of health maintenance organizations and supplemental health maintenance organizations, particularly with the intent of improving the health of populations in medically underserved areas.

"(c) Nothing in this title, or any amendment made by this Act, shall be construed to supersede any activity relating to review of the provision of health care services under (including review and assessment of quality or quantity of such services or determination or reimbursement therefor) or to the determination of eligibiliy of any provider, practitioner, agency, or organization to participate under any program established under the Social Security Act.

"AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT

'SEC. 403. The Public Health Service Act (42 U.S.C. 201) is amended by inserting after title XI the following new title:

"'TITLE XII—HEALTH MAINTENANCE ORGANIZATIONS

"'PART A—SUPPORT OF HEALTH MAINTENANCE ORGANIZATIONS

"'DEFINITIONS

"'SEC. 1201. For the purposes of this title:

"'(1) The term "health maintenance organization" means an entity which—

"'(A) provides as a minimum for all its enrollees (or subscribers) comprehensive health services (as defined in this section) which are uniformally available to all its enrollees (or subscribers) directly through its own staff and supporting resources or through a medical group or groups and such other additional services as may be required through other health delivery entities, for a fixed payment which (i) is to be paid on a periodic basis without regard to the frequency, extent, or kind of health service actually furnished to any particular enrollee; and (ii) is uniform for all its enrollees subject to rules and regulations regarding family rates;

"'(B) demonstrates to the satisfaction of the Secretary ability to assure that appropriate comprehensive health services are available and accessible to all its enrollees promptly and in a manner which assures continuity;

"'(C) demonstrates to the satisfaction of the Secretary financial responsibility through proof of adequate provision against the risk of insolvency;

"'(D) is organized in such a manner (as prescribed by regulations of the Secretary) that assures its enrollees a substantial role (generally defined as one-third representation in the body establishing or recommending policy) in the making of policy for the health maintenance organization, with equitable representation of enrollees from medically underserved areas, and provides meaningful procedures for hearing and resolving grievances (i) between its enrollees and the health maintenance organization (including the medical group or groups and other health delivery entities providing health services), and (ii) between the medical group or groups providing health services and other employees and the health maintenance organization;

"'(E) encourages and actively provides for its enrollees (i) health education services, (ii) education in the appropriate use of health services provided, and (iii) education in the contribution the patient can make in the maintenance of his own health;

"'(F) has organizational arrangements, established in accordance with regulations of the Commission on Quality Health Care Assurance (established under title XIII of this Act) for an ongoing quality assurance program which stresses health outcomes and assures that health services provided meet the requirements of the Commission on Quality Health Care Assurance;

"'(G) provides, in accordance with regulations of the Secretary (including safeguards concerning the confidentiality of the doctor-patient relationship), an effective procedure for developing, compiling, evaluating, and reporting to the Secretary, data (which the Secretary shall publish and disseminate on an annual basis) relating to (i) the cost of its operations, (ii) the patterns of utilization of its services, (iii) the availability, accessibility, and acceptability of its services, and (iv) such other matters as the Secretary may require and disclose at least annually and in a manner acceptable to the Secretary, such data to its enrollees and to the general public;

"'(H) except for (i) out of area emergency care, and (ii) care reasonably valued in excess of the first $5,000 per enrollee per year, assumes direct financial responsibility, without benefit of insurance, on a prospective basis for the provision of the comprehensive health services defined in this section;

"'(I) has an open enrollment period, unless a waiver has been granted under section 1216, of not less than thirty days at least once during each consecutive twelve-month period during which it accepts individuals in the order in which they apply for enrollment up to its capacity, subject to the requirements of paragraph (K);

"'(J) assumes responsibility for the provision of health care services to its enrollees (and on a reimbursable basis for short-term health care services to enrollees of any other health maintenance or supplemental health maintenance organization who are temporarily outside the service area of the health maintenance or supplemental health maintenance organization in which they are enrolled) twenty-four hours a day, seven days a week, and for the appropriate availability of such services in emergencies;

"'(K) shall enroll no more than 50 per centum of its enrollees from medically underserved areas, except in rural areas as designated by the Secretary;

"'(L) provides, or makes arrangements for, continuing education for its staff;

"'(M) emphasizes the use of nurse practitioners, physician's assistants, dental therapists, and other allied health personnel and to the extent practicable and consistent with good medical practice, trains and employs such personnel in the rendering of services;

"'(N) provides to its enrollees as an option, for an additional premium, extended care facility services and dental services;

"'(O) may purchase on a fee-for-service basis unusual or infrequently used health care services for its enrollees;

"'(P) does not refuse enrollment to or expel any person for any reason concerning his health status or requirements for the provision of health services;

"'(Q) provides for the prevention, diagnosis, and medical and psychological treatment of the abuse of or addiction to alcohol and drugs either through its own facilities or existing community facilities; and

"'(R) meets such other criteria for its organization and operations as the Secretary may by regulation prescribe, consistent with the provisions of this title.

"'(2) The term "comprehensive health services" means health services provided without limitation as to time or cost as follows—

"'(A) physician services (including consultant and referral services);

"'(B) inpatient and outpatient hospital services;

"'(C) home health services;

"'(D) diagnostic laboratory, and diagnostic and therapeutic radiologic services;

"'(E) preventive health (including but not limited to voluntary family planning, infertility services, and preventive dental care for children) and early disease detection services;

"'(F) emergency health services rendered by any provider of health care, the expense of which shall be borne by the enrollee's health maintenance or supplemental health maintenance organization;

"'(G) provision of or payment for prescription drugs (with patterns of patient drug utilization under continuous surveillance, evaluation, and review by a clinical pharmacist whose duties shall include the maintenance of a drug use profile for each enrollee);

"'(H) medical social services;

"'(I) vision care (except for eyeglasses which shall be optional) as provided by a physician skilled in the diagnosis and treatment of diseases of the eye, or by an optometrist provided such services are within the scope of his license;

"'(J) physical medicine and rehabilitative services (including physical therapy);

"'(K) mental health services utilizing existing community mental health centers on a priority basis;

"'(L) preventive diagnostic and medical and psychological treatment of the abuse of or addiction to alcohol and drugs; and

"'(M) such other personal health services as the Secretary may determine are necessary to insure the protection, maintenance, and support of human health.

"'(3) The term "medical group" means a partnership or other association or group of health professionals of whom not less than four and at least a majority shall be persons who are licensed to practice medicine or osteopathy, and such other licensed health professionals as are necessary to provide comprehensive health services and who are eligible for assistance under this Act, in conformance with requirements promulgated under section 1302, in a State and who (A) as their principal professional activity engage in the coordinated practice of their profession as a group responsibility providing services to health maintenance or health service organization enrollees; (B) if not employees or retainees of a health maintenance organization, or health service organization, pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary or drawing account plan; (C) jointly use or share medical and other records and substantial portions of major equipment and professional technical, and administrative staff; (D) share or jointly utilize such addi-

tional health and allied health professionals who may include but are not limited to psychologists and other mental health workers, optometrists, pharmacists, podiatrists, dental therapists, physician's assistants, nurse practioners and nurse midwives, as are needed to provide comprehensive health services; and (E) arrange for and encourage the continuing education of their members in the field of clinical medicine and related areas.

"'(4) The term "enrollee" when used in connection with a health maintenance organization or supplemental health maintenance organization (as defined in part B), means an individual who has entered into a contractual arrangement, or on whose behalf a contractual arrangement has been entered into, with a health maintenance organization or supplemental health maintenance organization under which such organization assumes the responsibility for the provision of health services to such individual.

"'(5) The term "medically underserved area" means an urban or rural area or population group designated by the Secretary as an area or population group with a shortage of personal health services. Such a designation may be made by the Secretary only after consideration of the comments, if any, of (A) each State comprehensive health planning agency designated pursuant to section 314(a) of this Act covering, in whole or in part, such area, (B) each areawide comprehensive health planning agency designated pursuant to section 314(b) of this Act, covering, in whole or in part, such area, and (C) regional medical programs established pursuant to title IX of this Act, covering, in whole or in part, such area.

"'(6) The terms "construction" and "cost of construction" include (A) the construction of new buildings, and the acquisition expansion, remodeling, replacement, and alteration of existing buildings, and including architects' fees, and (B) equipping new buildings and existing buildings, whether or not acquired, expanded, remodeled, or altered with assistance under this title.

"'(7) The term "university health center" means a health care institution which is owned and operated by an accredited university or college of medicine or which has a written affiliation arrangement with an accredited university or college of medicine for the purpose of educating undergraduate medical students.

"'(8) The term "nonmetropolitan area" means an area no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget, and does not contain a city whose population exceeds fifty thousand persons.

"'(9) The term "nonprofit provider group" means an incorporated body of health providers (including physicians, administrators, nurses, and paraprofessionals who qualify under the Public Health Service Act) that is regional in scope.

"'(10) The term "high-risk enrollee" means a person who is likely to utilize the services of a provider of health care more often than an actuarially determined average.

"'GRANTS FOR PLANNING AND FEASIBILITY STUDIES

"'SEC. 1202. (a) The Secretary may make grants, subject to the general provisions of this title, to public or private nonprofit agencies, organizations, or institutions to assist in projects for planning or studying the feasibility of developing or expanding health maintenance organizations. No project may receive more than $250,000 in grants under this section. Funds awarded under such grants shall be available for expenditure by the grantee for such period (not to exceed two years from the date of award) designated by the Secretary.

"'(b) In making grants under this section the Secretary shall give priority to those applicants who give assurances that at least 30 per centum of their total enrollment shall be persons from medically underserved areas.

"'(c) There are authorized to be appropriated to carry out the provisions of this section $10,000,000 for the fiscal year ending June 30, 1974, $15,000,000 for the fiscal year ending June 30, 1975, and $20,000,000 for the fiscal year ending June 30, 1976.

"'GRANTS FOR INITIAL DEVELOPMENT COSTS

"'SEC. 1203. (a) The Secretary may make grants, subject to the general provisions of this title, to any public or assist them in meeting the costs involved in a project for the initial development of a health maintenance organization prior to its first day of operation. No project may receive more than $1,000,000 in grants under this section.

"'(b) Sums awarded under such grant shall be available for expenditure by the grantee for not more than three years, and shall be utilized for such purposes as may be prescribed in regulations of the Secretary, including but not limited to (1) implementation of an enrollment campaign; (2) detailed design of and arrangements for the health services to be provided; (3) development of administrative and internal organizational arrangements, including fiscal control and fund accounting procedures and the development of a capital financing program; (4) recruitment of personnel and the conduct of personnel training activities; and (5) payment of architects' and engineers' fees.

"'(c) In making grants under this section the Secretary shall give priority to those applicants who give assurances that at least 30 per centum of their total enrollment shall be persons from medically underserved areas.

"'(d) There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for the fiscal year ending June 30, 1974, $25,000,000 for the fiscal year ending June 30, 1975, and $30,000,000 for the fiscal year ending June 30, 1976.

"'CONSTRUCTION GRANTS

"'SEC. 1204. (a) The Secretary may make grants, subject to the general provisions of this title, to assist any public or private nonprofit health maintenance organization or any public or private nonprofit agency, organization, or institution intended to become a health maintenance organization in meeting the cost of construction of facilities or portions of facilities for ambulatory care and capital investment for necessary transportation equipment, to be used by it for the provision of health services to its enrollees. The Secretary shall give special consideration to applications for grants for the acquisition or renovation of existing facilities. Except for exceptional circumstances, in which case up to 90 per centum of the cost of construction (as determined by the Secretary) may be authorized by the Secretary, no grant under this section for any project may exceed 75 per centum of the cost of construction of such project. No project may receive more than $2,500,000 in grants under this section.

"'(b) In making grants under this section the Secretary shall give priority to those applicants who give assurances that at least 30 per centum of their total enrollment shall be persons from medically underserved areas.

"'(c) There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for the fiscal year ending June 30, 1974, $30,000,000 for the fiscal year ending June 30, 1975, and $40,000,000 for the fiscal year ending June 30, 1976.

"'GRANTS FOR INITIAL COSTS OF OPERATION

"'SEC. 1205. (a) Where the Secretary determines that the applicant has made all reasonable attempts to meet his operating expenses (including loans and loan guarantees), he may make grants to public and private nonprofit health maintenance organizations to assist them in meeting operating deficits during the initial three-year period of their operation.

"'(b) Grants under this section shall be made only for the period beginning with the first day of the first month for which such grant is made and ending with the close of three years after such first day; and such grant with respect to any such organization may not exceed 100 per centum of such operating deficit for the first year after such first day; 67 per centum of such first year operating deficit for the second year after such first day, and 33 per centum of such first year operating deficit for the third year after such first day.

"'(c) There are authorized to be appropriated to carry out the provisions of this section, $5,000,000 for the fiscal year ending June 30, 1974, $30,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976.

"'CONSTRUCTION LOANS

"'SEC. 1206. (a) The Secretary may make loans, subject to the general provisions of this title, to any public or private nonprofit health maintenance organization, or any public or private nonprofit agency, organization, or institution intending to become a health maintenance organization, to assist it in meeting the cost of construction of facilities for ambulatory care and transportation services for the provision of health services to its enrollees. The Secretary shall give special consideration to applications for loans for the acquisition or renovation of existing facilities. No loan under this section for any project may exceed 90 per centum of the cost of construction (as determined by the Secretary) of such project.

"'(b) There are authorized to be appropriated to carry out the provisions of this section, $10,000,000 for the fiscal year ending June 30, 1974, $20,000,000 for the fiscal year ending June 30, 1975, and $30,000,000 for the fiscal year ending June 30, 1976. Sums so appropriated, together with repayments of loans made under this section and any other receipts in connection with the program under this section, shall be placed in and constitute a revolving fund which shall be available to the Secretary without fiscal year limitation for use in making loans and other expenditures in the exercise of his functions under this section.

"'LOANS FOR INITIAL COSTS OF OPERATION

"'SEC. 1207. (a) The Secretary may make loans, subject to the general provisions of this title, to any public or private nonprofit health maintenance organization to assist it in meeting, for the period prescribed in subsection (b), a portion of its initial operating costs in excess of gross revenues determined under regulations of the Secretary.

"'(b) Loans under this section for initial costs of operation may be made only for the period beginning with the first day of the first month for which such a loan is made and ending with the close of three years after such first day; and such loans with respect to any project may not exceed 60 per centum of such costs of operation, for the first year after such first day; 40 per centum of such costs for the second year after such first day; and 20 per centum of such costs for the third year after such first day.

"'(c) There are authorized to be appropriated to carry out the provisions of this section $5,000,000 for the fiscal year ending June 30, 1974, $30,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976. Sums so appropriated, together with repayments of loans made under this section, shall be placed in and constitute a revolving fund which shall be available to the Secretary without fiscal year limitation for use in

making loans and other expenditures in the exercise of his functions under this section.

"'PART B—SUPPLEMENTAL HEALTH MAINTENANCE ORGANIZATIONS

"'SUPPLEMENTAL HEALTH MAINTENANCE ORGANIZATIONS

"'SEC. 1208. The Secretary may make grants and loans to supplemental health maintenance organizations (as defined in section 1209) from funds appropriated pursuant to authorizations under part A of this Act for the purposes described in part A in amounts not to exceed 17.5 per centum of the amounts appropriated under such part: *Provided*, That the Secretary may make such grants and loans in excess of 17.5 per centum of such amounts from funds available during any fiscal year after all applications from qualified applicants under part A have been fully funded. Such grants and loans shall be for the same purposes, and subject to the same conditions and limitations as are applicable in the case of grants and loans to health maintenance organizations (as defined in section 1201).

"'DEFINITIONS

"'SEC. 1209. For the purposes of this part and part E—

"'(1) The term "supplemental health maintenance organization" means a public or private organization which—

"'(A) provides, either directly or through arrangements with others, health services to individuals enrolled with such organization on a per capita prepayment basis;

"'(B) provides, either directly, or through arrangements with others and through institutions, entities, and persons meeting the applicable requirements of section 1861 of the Social Security Act, all those health services which a defined population might reasonably require in order to be maintained in good health, including as a minimum emergency care, inpatient hospital and physician care, ambulatory physician care, and outpatient preventive medical services;

"'SEC. 1209. For the purpose of this part and part E—

"'(C) provides physicians' services (i) directly through physicians who are either employees or partners of such organization, or (ii) under arrangements with one or more groups of physicians (organized on a group practice or individual practice basis) under which each such group is reimbursed for its services primarily on the basis of an aggregate fixed sum or on a per capita basis, regardless of whether the individual physician members of any such group are paid on a fee-for-service or other basis;

"'(D) demonstrates to the satisfaction of the Secretary proof of financial responsibility and proof of capability to provide prompt, efficient and economical comprehensive health care services, including institutional services, efficiently, effectively, and economically and in a manner which assures continuity;

"'(E) has arrangements for assuring that the health services required by its enrollees are received promptly and appropriately and that the services which are received meet quality standards which it establishes in accordance with regulations of the Commission on Quality Health Care Assurance;

"'(F) is organized in such a manner as to emphasize local initiative and consumer and community involvement in the planning, development, and operation of such supplemental health maintenance organization and seek to insure prompt response to local initiative; and

"'(G) demonstrates to the satisfaction of the Secretary, in accordance with regulations of the Secretary, it has or will have a governing board which includes members who (i) have no financial interest in the organization other than as enrolled participants, (ii) are not receiving compensation for the provision of goods or services to the organization other than reasonable compensation for service as members of the governing board, and (iii) are neither employed by, nor members of the immediate family of, persons who have such an interest or are receiving such prohibited compensation.

"'PART B—GENERAL PROVISIONS

"'GRANTS AND LOSSES

"'SEC. 1210. (a) Any loan by the Secretary shall bear interest at a rate comparable to the current legal rate of interest prevailing with respect to loans which are guaranteed under section 1211. No payment of principal on a loan shall be required for the first five years after such loan is made.

"'(b) No such loan shall be made unless—

"'(1) the Secretary is reasonably satisfied that the applicant therefor will be able to make payments of principal and interest thereon when due, and

"'(2) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project with respect to which such loan is requested.

"'(c) Any such loan shall have such security, have such maturity date, be repayable in such installments, and be subject to such other terms and conditions (including provisions for recovery in case of default) as the Secretary determines to be necessary to carry out the purposes of this title while adequately protecting the financial interests of the United States.

"'(d) No such loan shall have a term in excess of fifteen years.

"'(e) The Secretary may, for good cause, waive any right of recovery which he has by reason of the failure of a public organization to make payment and interest on a loan under this section.

"'LOAN GUARANTEES AND INTEREST SUBSIDIES

"'SEC. 1211. (a) In order to assist (1) private health maintenance organizations and health service organizations (or entities intending to become either), to carry out construction projects for ambulatory care facilities and transportation services and in the case of health service organizations communication services to be used by it for the provision of health services to its enrollees, to meet their initial development costs (for not more than three years) or to meet their cost of operation (for not more than three years), (2) university health centers, regional medical programs, and other private nonprofit provider groups in the development of area health education and service centers, and to provide working capital for the operation of such area health education and service centers as well as to subsidize the difference between income and operating expenditures, the Secretary, during the period beginning January 1, 1974, and ending with the close of June 30, 1976, may, in accordance with the provisions of this section, and subject to the general provisions of this Act (A) guarantee to non-Federal lenders making loans to such organizations for such purposes, payment of principal of and interest on such loans which are approved under this section, and (B) in the case of nonprofit health maintenance or supplemental health maintenance organizations, pay to the holder of such loans (and for and on behalf of the organization which received such loan) amounts sufficient (not to exceed 3 per centum per annum) to reduce the net effective interest rate otherwise payable on such loan. No loan guarantee or interest subsidy under this section may, except under such special circumstances and under such conditions as are prescribed by regulations, apply to or be made for an amount which, when added to any grant or other loan under this or any other law of the United States, is—

"'(i) with respect to any construction, in excess of 90 per centum of the cost of such construction,

"'(ii) with respect to initial development costs, in excess of 90 per centum of such costs, or

"'(iii) with respect to initial operating costs, in excess of 90 per centum of such costs.

No such loan guarantee may apply to more than 90 per centum of the loss of principal and interest on the loan.

"'(b) The Secretary may not approve the application of a health maintenance organization, supplemental health maintenance organization, university health center, regional medical program, or other nonprofit provider unless—

"'(1) he determines, in the case of a loan for which a guarantee or an interest subsidy payment is sought, that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States:

"'(2) the term of a loan for which a guarantee and interest subsidy is sought does not exceed twenty-five years if for construction, or fifteen years if for operating costs, or such shorter period as the Secretary prescribes; and

"'(3) he obtains assurances that the applicant will keep such records, and afford such access thereto, and make such reports, in such form and containing such information, as the Secretary may reasonably require.

"'(c) Guarantees of loans and interest subsidy payments under this section shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this section will be achieved, and, to the extent permitted by subsection (e), any of such terms and conditions may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

"'(d) In the case of any loan guaranteed under this section, the United States shall be entitled to recover from the applicant the amount of any payments made pursuant to such guarantee unless the Secretary, for good cause, waives his right of recovery, and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"'(e) Any guarantee of a loan under this section shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person.

"'(f) (1) There is established in the Treasury a Health Maintenance Organization, and Supplemental Health Maintenance Organization Loan Guarantee and Interest Subsidy Fund (hereafter in this section referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts (A) to enable him to discharge his responsibilities under guarantees issued by him under this title, and (B) for interest subsidy payments authorized by this title. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required by the fund. To the extent authorized from time to time in appropria-

tion Acts there shall be deposited in the fund amounts received by the Secretary as interest payments or repayments of principal on loans and any other moneys, property, or assets derived by him from his operation under this title, including any moneys derived from the sale of assets.

"'(2) If at any time the moneys in the fund are insufficient to enable the Secretary to discharge his responsibilities under this title to meet the obligations under guarantees of loans under subsection (a) or to make interest subsidy payments on such loans, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

"'(g) (1) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriation Act.

"'(2) In any fiscal year no loan guarantee or agreement to make interest subsidy payments may be entered into under this title if the making of such guarantee or the entering into of such agreement would cause the cumulative total of—

"'(A) the principal of the loans guaranteed under this title in such fiscal year, and

"'(B) the principal of the loans for which no guarantee has been made under this title and with respect to which an agreement to make interest subsidy payments is entered into under this title in such fiscal year, to exceed the amount of grants obligated under this Act in such fiscal year; except that this paragraph shall not apply if the amount of grant funds obligated under this title in such fiscal year equals the sums appropriated for such fiscal year under this title.

"'APPLICATION REQUIREMENTS

"'SEC. 1212. (a) No grant, contract, loan, loan guarantee, or interest subsidy may be made under this title unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, consistent with subsection (b)(1), as the Secretary shall by regulation prescribe.

"'(b)(1) An application for a grant, loan, loan guarantee, or interest subsidy under this title shall include to such extent, in such manner and among such other matters as the Secretary may by regulation prescribe, satisfactory specification of the existing or anticipated (A) population group or groups to be served by the existing or proposed health maintenance organization or supplemental health maintenance organization described in the application, (B) enrollment for such organization, (C) methods, terms, and periods for the enrollment of enrollees, (D) nature and estimated costs per enrollee of the health care and educational services to be provided, (E) sources of professional services, and organizational arrangements for providing health care and educational services, (F) organizational arrangements for an ongoing quality assurance program in conformance with the requirements of the Commission on Quality Health Care Assurance, (G) sources of prepayment and other forms of payment for the services to be provided, (H) facilities available for and additional capital investments and sources of financing therefor, required to provide the level and scope of services proposed, (I) administrative, managerial, and financial arrangements and capabilities of such organization, (J) role for enrollees in the planning and policymaking for such organization, (K) grievance procedures for enrollees, staff, and employees, and (L) evaluation or evaluations of the support for and acceptance of such organization by the population to be served, the sources of operating support, and the professional groups to be involved or who would be affected thereby. An organization making multiple applications for assistance under this title simultaneously or over the course of time shall not be required to submit duplicate or redundant information but shall be required to update the description of the existing or proposed organization in such manner and with such frequency as the Secretary may by regulation prescribe.

"'(2) Upon completion of assistance under this title, the receipt of assistance shall make a full and complete report to the Secretary, in such manner as he may by regulation prescribe. Each such report shall include, among such other matters as the Secretary may by regulation prescribe, descriptions of plans, developments, and operations in those areas enumerated in paragraph (1) for specification in applications for assistance.

"'(c) A health maintenance organization, or supplemental health maintenance organization, other nonprofit providers, regional medical programs or university health center receiving assistance under this title shall submit to the Secretary as a condition of its continued assistance, satisfactory assurances, in accordance with such regulations as the Secretary shall prescribe, including but not limited to the following: (1) financial responsibility, and (2) development and operation consistent with the terms of this title and the plans contained in such organization's application or applications for assistance. As used in this subsection the term "financial responsibility" means the demonstrated capability of adequately carry out the purposes of the project for which the original assistance was granted.

"'(d)(1) An application for a grant, loan, loan guarantee, or interest subsidy under this title shall contain assurances satisfactory to the Secretary that the applicant will, in accordance with such criteria as the Secretary shall by regulation prescribe, enroll the maximum number of persons that its available and potential resources (as determined under regulations of the Secretary) will enable it to effectively serve; except that the applicant shall enroll no more than 50 per centum of its enrollees from medically underserved areas except in rural areas as designated by the Secretary.

"'(2) No grant may be made and no loan loan guarantee, or interest subsidy payment may be made under this title unless the applicant demonstrates to the satisfaction of the Secretary that the applicant will or has enrolled, and will maintain an enrollment of, the maximum number of persons that its available and potential resources (as determined under regulations of the Secretary) will enable it to effectively serve, except that the applicant shall enroll no more than 50 per centum of its enrollees from medically underserved areas except in rural areas as designated by the Secretary.

"'(e) The Secretary shall have the authority after a hearing on the record to terminate or cancel any grant, loan, loan guarantee, or interest subsidy to any recipient of assistance under this title which he determines is in substantial noncompliance with any material provision of this title or after notice from the Commission on Quality Health Care Assurance that such organization has had its certificate of compliance suspended or revoked.

"'(f) Effective two years after the date of enactment of this Act, no assistance shall be given under this Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, to a provider of health care unless such provider holds a valid certificate of compliance under section 1302.

"'(g)(1) The Secretary may not approve an application submitted under section 1203, 1204, 1205, 1206, or 1207 unless the section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) the area to be served by the health maintenance organization, or supplemental health maintenance organization for which such application is submitted, or if there is no such agency, the section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) such area, has, in accordance with regulations of the Secretary, been provided an opportunity to review the application and to submit to the Secretary for his consideration its recommendations respecting approval of the application. If under applicable State law such an application may not be submitted without the approval of the section 314(b) areawide health planning agency or the section 314(a) State health planning agency, the Secretary may not approve such an application unless the required approval has been obtained.

"'(2) The Secretary shall by regulation establish standards and procedures for section 314(b) areawide health planning agencies and section 314 (a) State health planning agencies to follow in reviewing and commenting on applications for assistance for health maintenance organizations.

"'(h) If during any fiscal year there are insufficient funds for funding all of the approved applications for assistance under this title, the Secretary shall give priority to those applications which he determines shall be most likely to be economically viable.

"'EFFECT ON STATE LAW

"'SEC. 1213. (a) Notwithstanding any provisions of State law which—

"'(1) require approval of a health maintenance organization, supplemental health maintenance organization or health service organization by a medical society;

"'(2) require that physicians constitute all or a majority of the governing body of a health maintenance organization or supplemental health maintenance organization;

"'(3) require that all physicians or a percentage of physicians in the local medical society be permitted to participate in rendering the services of the organization;

"'(4) require that such organization submit to regulations as an insurer of health care services;

"'(5) require that only unincorporated individuals or associations or partnerships may provide health care services;

"'(6) prohibit advertising by a professional group for recruitment of enrollees; or

"'(7) impose requirements or restrictions on a health maintenance organization or

supplemental health maintenance organization in a manner, determined by the Secretary, to be incompatible with this title,

a health maintenance organization or a supplemental health maintenance organization, or other providers of health care receiving Quality Health Care Initiative Awards under this title, who otherwise conform with the laws for incorporation and laws for licensing of physicians, osteopaths, and dentists in such State shall be allowed to provide health care services in such State in accordance with the provisions of this title.

"'QUALITY HEALTH-CARE INITIATIVE AWARDS

"'SEC. 1214. (a) Every provider of health care which is certified by the Commission on Quality Health Care Assurance as maintaining quality control standards in compliance with the requirements set by the Commission on Quality Health Care Assurance shall be entitled to an annual payment in an amount equal to the administrative costs incurred (as allowed by the Commission) in complying with the requirements of the Commission or, otherwise demonstrating in accordance with professional standards the effectiveness and utility of health maintenance organizations, and supplemental health maintenance organizations. Any provider of health care, whether or not subject to the provisions of this Act, may apply to the Commission for certification of compliance under section 1302.

"'(b) There is authorized to be appropriated to carry out the provisions of this section $25,000,000 for the fiscal year ending June 30, 1974; $50,000,000 for the fiscal year ending June 30, 1975; and $75,000,000 for the fiscal year ending June 30, 1976.

"'LABOR STANDARDS

"'SEC. 1215. All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934.

"'OPEN ENROLLMENT WAIVER

"'SEC. 1216. Where a health maintenance or supplemental health maintenance organization demonstrates to the satisfaction of the Secretary that it has a disproportionate share of high-risk enrollees and by maintaining open enrollment it would be required to enroll a nonrepresentative cross section of the community in which it provides services, to the extent that financing is available and people are willing to enroll, and the enrollment of such disproportionate share of high-risk enrollees will jeopardize its economic viability, the Secretary may waive such requirement for open enrollment for a period of not more than three years. A health maintenance or supplemental health maintenance organization may receive more than one waiver.

"'ACCESS TO RECORDS

"'SEC. 1217. (a) Each recipient of Federal funds under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such funds, the total cost of the undertaking in connection with which such funds are given or used, the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"'(b) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of Federal funds under this Act.

"'COMPREHENSIVE SERVICES PHASE-IN

"'SEC. 1218. The Secretary may grant a waiver to an applicant for assistance under this title, with respect to the provision of any comprehensive health service set forth pursuant to section 1201(2) (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), or (L) where he determines that—

"'(1) such service cannot be provided by the applicant solely because the required health manpower, facilities or equipment to provide such service is not available; and

"'(2) the applicant has a feasible plan to provide such service at the earliest possible date, such date not to exceed 3 years from the date assistance under this title is first granted to such applicant.

"'COMPREHENSIVE HEALTH SERVICES FOR INDIANS AND MIGRANT WORKERS

"'SEC. 1219. The Secretary is authorized to contract with health maintenance organizations, supplemental health maintenance organizations, or health service organizations to provide health services to individuals who are eligible for such services from the Indian Health Service (with the consent of the Indian people served) or under section 310 of this Act.

"'PART C—SPECIAL PROJECT GRANTS TO FACILITATE HEALTH SERVICES IN NONMETROPOLITAN AREAS

"'SEC. 1220. (a) The Secretary is authorized to make grants to or contracts with any public or nonprofit private entity (which otherwise may not be eligible for grants or assistance under this title) to study, initiate, and evaluate projects for the delivery, or to facilitate the delivery, in nonmetropolitan areas of comprehensive health services on the prepaid basis.'

"SEC. 404. The Public Health Service Act, as amended by this Act, is further amended by inserting after title XII the following new title:

"'TITLE XII—COMMISSION ON QUALITY HEALTH CARE ASSURANCE

"'PART A—COMMISSION ON QUALITY HEALTH CARE ASSURANCE

"'ESTABLISHMENT OF COMMISSION

"'SEC. 1301. (a) There is hereby established in the Department of Health, Education, and Welfare a Commission on Quality Health Care Assurance.

"'(b) The Commission shall be composed of eleven members to be appointed by the President and with the advice and consent of the Senate from among individuals who by virtue of their service, experience, or education are especially qualified to serve on the Commission. In making such appointments the President shall appoint individuals who are representative of the health care delivery industry, private organizations engaged in developing health care quality standards which may be applicable on a national basis, and consumers not related to the delivery of health care. The terms of office of each member of the Commission shall be—

"'(1) the members first appointed shall serve, as designated by the President, three for a term of one year, two for a term of two years, two for a term of three years, two for a term of four years, and two for a term of five years;

"'(2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed; and

"'(3) a member shall be eligible for reappointment for one additional term.

"'(c) The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Commission.

"'(d) Any vacancy in the Commission shall not affect its powers and six members of the Commission shall constitute a quorum.

"'(e) Four members of the Commission shall be consumers not related to the delivery of health care.

"'DUTIES OF THE COMMISSION

"'SEC. 1302. (a) The Commission shall—

"'(1) promulgate standards for qualifications of personnel, composition of medical groups, and other characteristics dealing with the adequacy of facilities and equipment;

"'(2) conduct such research and experimental programs as are determined necessary for the development of—

"'(A) criteria for new and 'improved quality assurance systems, and

"'(B) norms, with regard to processes, utilization characteristics, and outcomes;

"'(3) require and monitor, in accordance with criteria established based upon findings under paragraph (2), quality assurance systems for health maintenance organizations, supplemental health maintenance organizations, health service organizations, and other providers of health care subject to the provisions of this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 which shall be designed to—

"'(A) improve as well as assess the quality of health care;

"'(B) evaluate the inputs, processes, utilization characteristics, and outcomes of health care as related to individuals and population groups, and establish relationships between inputs, processes, utilization characteristics, and outcomes;

"'(C) concentrate on those illnesses which have relatively high incidence in the population and which are particularly influenced by medical treatment, rather than on unusual illnesses or conditions whose course is little influenced by therapy;

"'(D) improve as well as assesses the accessibility, availability, and acceptability of health care provided by health maintenance organizations, supplemental health maintenance organizations, and health service organizations, or other providers of health care;

"'(E) develop procedures for such systems to report through the policymaking body of the health maintenance or supplemental health maintenance, organization (or as appropriate in the case of any other provider of health care) to the membership and to the Commission on Quality Health Care Assurance; and

"'(F) take into account the need for inclusion of consumers as well as the several health care disciplines in the decisionmaking membership of the system;

"'(4) certificates of compliance to providers of health care certifying that such providers maintain an approved quality assurance system and are otherwise conforming with requirements published under this section;

"'(5) after a hearing on the record, revoke or suspend such certificate where it determines that such provider has significantly deviated from the standards, approved quality assurance system, or the norms published pursuant to this section unless such deviation is justified to the satisfaction of the Commission;

"'(6) monitor reports by health care providers covered by this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, for the purpose of assuring that the per-

formance of such health care providers is in conformance with the approved quality assurance system and norms published under this section;

"'(7) publish objective statistical descriptions of norms accumulated through experience and results of programs conducted under this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963;

"'(8) conduct a program of research and development which shall have the objectives of—

"'(A) improving the technology of assessing the quality of health care with emphasis on the outcomes of health care;

"'(B) assessing and comparing the quality of health care provided under different delivery system arrangements;

"'(C) analyzing the effects of providing information to consumers and improvement in the methods of information dissemination;

"'(D) analyzing the impact of its quality assurance program upon the quality of health care for the American people; and

"'(E) coordinating the collection, assimilation and cataloging of existing information regarding quality health care assurance programs of Federal, State, and local agencies and their relationships with one another, with due regard for the protection of the confidential nature of the doctor-patient relationship;

"'(9) collect, summarize, and distribute information regarding the impact of medical services and the health status of the population of the United States;

"'(10) provide technical assistance to providers of health care in the development of quality control programs;

"'(11) study the levels, costs, and quality of health care under health care programs of the Federal Government;

"'(12) administer any medical malpractice reinsurance program hereinafter established;

"'(13) analyze the need for standardization of medical record information and facilitate the development of a system of standard medical reference mechanisms;

"'(14) prescribe a schedule of reasonable contingent fees for attorneys representing claimants in proceedings under section 1309; and

"'(15) annually report to the President and to the Congress on the conduct of activities under this title (including results of studies conducted under paragraph (11)) together with such recommendations for additional legislation as the Commission may determine appropriate.

"'(b) In developing quality health care assurance system criteria the Commission's consideration shall include but not be limited to existing State regulations, such standards as are in effect for Federal health agencies, and analysis of the results of any medical malpractice reinsurance program and the results of arbitration procedures.

"'ADMINISTRATIVE POWERS

"'SEC. 1303. (a) In order to carry out the provisions of this Act the Commission is authorized to—

"'(1) appoint and fix the compensation of personnel of the Commission in accordance with the provisions of title 5, United States Code;

"'(2) make, promulgate, issue, rescind, and amend rules and regulations as may be necessary to carry out the functions vested in the Commission and delegate authority to any officer or employee;

"'(3) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain, research and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Commission deems necessary; to acquire by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Commission for a period not to exceed ten years without regard to the Act of March 3, 1877 (40 U.S.C. 34);

"'(4) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

"'(5) appoint one or more advisory committees (including a committee for the preparation and analysis of statistics) composed of such private citizens and officials of Federal, State, and local governments as it deems desirable, to advise the Commission with respect to its functions under this Act;

"'(6) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, and local public agencies with or without reimbursement therefor;

"'(7) accept voluntary and uncompensated services, notwithstanding the provisions of section 665(b) of title 31, United States Code;

"'(8) accept unconditional gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible; and

"'(9) take such actions as may be required for the accomplishment of the objectives of the Commission.

"'(b) Upon request made by the Commission each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent consistent with other laws to the Commission in the performance of its functions with or without reimbursement. Where the Commission determines that such services, equipment, personnel, facilities, and information cannot be made available for utilization in a manner which would enable it to expeditiously perform its duties under this Act, the Commission may establish where necessary the programs necessary to accomplish its tasks.

"'(c) Each member of a committee appointed pursuant to paragraph (5) of subsection (a) of this section who is not an officer or employee of the Federal Government shall receive an amount equal to the maximum daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, for each day he is engaged in the actual performance of his duties (including traveltime) as a member of a committee. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

"'(d) The Chairman shall be the chief executive and the administrative officer of the Commission and shall exercise the responsibility of the Commission with respect to—

"'(1) the appointment and supervision of personnel employed by the Commission;

"'(2) the distribution of jobs among the personnel of the Commission; and

"'(3) the use and expenditure of funds.

"'COMPENSATION

"'SEC. 1304. (a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(59) Chairman, Commission on Quality Health Care Assurance.'

"'(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"'(97) Members, Commission on Quality Health Care Assurance (10).

"'(98) General Counsel, Commission on Quality Health Care Assurance.'

"'APPLICABILITY OF COMMISSION REQUIREMENTS

"'SEC. 1305. (a) Except as provided in subsection (b) the requirements established by the Commission pursuant to section 1302 shall apply to any provider of health care receiving assistance under this Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 after the date of enactment of this title.

"'(b) Any provider covered under this Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, may apply to the Commission for a temporary order granting a variance from any requirement or any provision thereof promulgated under section 1302 of this Act. Such temporary order shall be granted only if the provider files an application which establishes that—

"'(1) the provider is unable to comply with a requirement by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with any requirement or because necessary construction, alteration, or modernization of facilities cannot be completed by its effective date; and

"'(2) the provider has an effective program for coming into compliance with any requirement as quickly as possible with adequate interim safeguards for the protection of consumers of health care.

"'(c) The Commission is authorized to grant a variance from any of its requirements or portion thereof whenever it determines or the Secretary of Health, Education, and Welfare certifies that such a variance is necessary to permit a provider to participate in a project approved by him designed to validate new and improved techniques of health care delivery systems.

"'REPORTS AND MAINTENANCE OF RECORDS

"'SEC. 1306. (a) Each provider, covered under this title, shall make, keep, and preserve, and make available to the Commission and the Secretary of Health, Education, and Welfare, such records regarding activities governed by this title as the Commission, in cooperation with the Secretary of Health, Education, and Welfare, shall prescribe.

"'(b) The Commission shall prescribe rules and regulations as may be necessary with regard to inspection of the records and facilities of a provider.

"'DISCLOSURE TO CONSUMERS OF HEALTH CARE SERVICES

"'SEC. 1307. (a) A description of any health care plan covered by this title shall be published as required herein within ninety days after the establishment of such plan or when such plan becomes subject to this title.

"'(b) A description of the plan shall be comprehensive and shall include, in a manner designed to be understood by the average enrollee, the following:

"'(1) fees and prices;

"'(2) scope of services included in benefit packages;

"'(3) accessibility and availability of services including the location of the facilities, equipment available, hours of operation, practitioners by type and location and amenities;

"'(4) the name and type of administration of the plan; and

"'(5) a statement of certification by the Commission.

"'(d) The Commission shall monitor the provision of information by providers of care as required by this section. In any case in which information is disclosed or disseminated under this title and is subsequently found to be insufficient, inaccurate, or inaccurately disseminated the Commission shall take such action as is necessary to assure a full retraction of the inaccurate information together with a statement of new data in a manner similar to the initial disclosure or dissemination of such information.

"'(e) The disclosure must also include procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims which are denied in whole or in part.

"'(f) Every provider shall furnish a copy of the plan description (including amendments or modifications thereto) described in subsection (b), to every enrollee upon his enrollment in the plan, and cause the same to be published, in a manner prescribed by the Commission, to the general public.

"'PENALTIES

"'SEC. 1308. (a)(1) Whenever the Commission after reasonable notice and opportunity for hearing to the provider finds that the provider has significantly deviated from the approved quality assurance system or is engaged in practices which significantly deviate from national or regional norms as determined by the Commission, the Commission shall notify the provider, and the Secretary of Health, Education, and Welfare that such provider shall be ineligible to participate in assistance under this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 and that the certificate of approval has been suspended until such time as the provider is found to be in compliance with the requirements established under section 1302. Hearings conducted under this section shall be held, where practicable, in a location convenient to the provider of health care.

"'(2) Providers of health care, who have had their certificate suspended for a period, which the Commission determines to be unreasonable, shall have their certificate revoked and shall be liable for the repayment of part or all amounts received under this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963.

"'(3) The Commission is authorized to make arrangements with providers of health care who have had their certificates revoked, for reimbursement of amounts received under this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, including deferred payments on such terms and for such periods as are deemed equitable and appropriate.

"'(b) Any person who knowingly makes any false statement, representation, or certification on any application, record, report, plan or other document filed or required to be maintained pursuant to this Act shall upon conviction be punished by a fine of not more than $10,000 or by imprisonment of not more than six months or by both.

"'ARBITRATION

"'SEC. 1309. (a) A provider of health care that possesses a valid certificate of compliance issued under section 1302 may enter into a program for the equitable and expeditious handling of malpractice claims which may arise out of care and treatment of patients. Such programs shall be based upon agreements between the patients and the providers of health care to submit all disputes, not settled to the satisfaction of both parties, to binding arbitration in order to gain the benefits of such programs for patients and providers. Records of all such settlements shall be kept by each provider of health care, and submitted to the Commission in such manner as it shall prescribe.

"'(b) An agreement to submit to binding arbitration under subsection (a) must be valid in the jurisdiction in which such agreement is made and shall provide for the selection of arbitrators in accordance with rules and regulations promulgated by the Commission. For those providers who shall establish arbitration programs as specified in this section, title 9 of the United States Code shall apply to such arbitration programs if the State or States in which the provider is located has not enacted legislation providing for the finality of arbitration decisions, or for parties to enter into agreements to arbitrate prior to a dispute.

"'(c) Written findings of fact and conclusions of law shall be prepared for each arbitration proceeding held under this section. In each case the findings shall be certified by the arbitrator to the Commission. The Commission shall develop a systematic codification of all findings of arbitration proceedings undertaken pursuant to this section and shall publish such findings at least annually or more frequently at the discretion of the Commission. The Commission shall certify all findings of arbitration proceedings undertaken pursuant to this section to all appropriate State or local licensing or disciplinary boards for each such arbitration procedure under the territorial jurisdiction of such board.

"'(d)(1) Every attorney who, in connection with any proceedings under this section for personal injuries or for death or for loss of services resulting from personal injury proximately caused by medical malpractice, accepts a retainer or enters into an agreement, express or implied, for compensation for services rendered or to be rendered in such proceedings whereby his compensation is to be dependent or contingent in whole or in part upon the successful prosecution or settlement thereof, shall, within thirty days from the date of any such retainer or agreement of compensation, sign personally and file with the Commission a retainer statement of such retainer or agreement of compensation containing such information as the Commission shall require.

"'(2) An attorney retained by another attorney on a contingent fee basis as trial or appeal counsel or to assist in the preparation, investigation, or settlement of any such proceeding, shall, within thirty days from the date of such retainer, sign personally and file with the Commission a retainer statement of such retainer or agreement of compensation containing such information as the Commission shall require.

"'(3) A closing statement shall be filed with the Commission with every proceeding in containing such information as the Commission shall require.

"'(4) All statements of retainer of closing statements filed with the Commission shall be confidential, and the information therein contained shall not be divulged or made available for inspection or examination except upon written order of the Chairman or the General Counsel of the Commission.

"'(5) Any attorney who charges or collects, for services rendered in connection with any proceedings described in this subsection, any fee in excess of that allowed, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"'PUBLICATION OF CRITERIA AND NORMS

"'SEC. 1310. (a) The Commission may, by rule, promulgate, modify, or revoke any quality assurance system criterion or norm in the following manner;

"'(1) whenever the Commission upon the basis of information submitted to it in writing by an interested person, a nationally recognized standard-producing organization, the Secretary of Health, Education, and Welfare, or a State or political subdivision, or on the basis of information developed by the Commission, or otherwise available to it, determines that a rule should be promulgated in order to serve the objectives of this title, the Commission shall publish such proposed rule promulgated, modifying, or revoking a standard or criterion for a quality health care assurance system or norm in the Federal Register, and shall afford interested persons a period of sixty days after publication to submit written data or comments.

"'(2) on or before the last day of the period provided for the submission of written data or comments, any interested person may file with the Commission writtten objections to the proposed rule stating the grounds therefor and requesting public hearing on such objections. Within sixty days after the last day for filing such objections the Commission shall publish in the Federal Register a notice specifying the criteria for quality health care assurance systems or norms to which objections have been filed and a hearing request and specifying a time and place for such hearing. Hearings conducted under this section shall be held, where practicable, in a location convenient to the person filing such objection.

"'(3) within sixty days after the expiration of the period provided for the submission of written data or comments or within sixty days after the completion of any hearing, whichever is later, the Commission shall issue and publish in the Federal Register a rule promulgated, modifying, or revoking standards, criteria for quality health care assurance systems or norms, or making a determination that a rule should not be issued. Such a rule may contain a provision delaying its effective date and such period (not in excess of ninety days) as the Commission determines may be necessary to insure that affected persons will be informed of the existence of the criteria or norm and of its determinations and that they are given an opportunity to familiarize themselves with the existence of the requirements of such criteria or norm.

"'(b) Any person who may be adversely affected by the promulgation of a rule issued respecting criterial or norms under this section may at any time prior to the ninetieth day after such criteria or norm is promulgated file a petition challenging the validity of such criterion or norm with the United States district court for the district where such person resides or has his principal place of business for a judicial review of such criterion or norm. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commission. The filing of such petition shall not, unless otherwise stated by the court, operate as a stay of the criterion or norm. The determinations of the Commission shall be conclusive if supported by the substantial evidence in the record considered as a whole.

"'(c)(1) In the case of establishing criteria for the assimilation of objective statistical material required for the publication of norms, the Commission shall hold hearings only when it determines such hearings to be necessary.

"'(2) The Commission shall publish in the Federal Register a summary and basis for the establishment of the criteria required by paragraph (1).

"'(d) The Commission in compiling information for setting the requirements for this title shall solicit views and information from concerned entities.

"'STATE JURISDICTION AND STATE PLANS

"'SEC. 1311. (a) Nothing in this Act shall prevent any State agency or court from asserting jurisdiction under State law over any health issue with respect to which no standard, criterion, or norm is in effect under section 1302 of this Act.

"'(b) Any State which at any time desires to assume responsibility for the development and enforcement of health standards, criteria, or norms relating to any health issue with repect to which a Federal standard, criterion, or norm has been promulgated under section 1302, shall submit to the Commission a State plan for the development of such standards, criteria, or norms and their enforcement.

"'(c) The Commission shall approve the plan submitted by a State under subsection (b) or any modification thereof only if such plan—

"'(1) designates a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State;

"'(2) provides for the development and enforcement of health standards, criteria, or norms relating to one or more health issues which standards, criteria, or norms (and the enforcement of which) will be no less stringent than the standards, criteria, or norms promulgated under section 1302 which relate to the same health issues;

"'(3) provides for a right to entry and inspection of all premises of providers of health care subject to the Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 which includes a prohibition on advance notice of inspections;

"'(4) contains satisfactory assurances that such agency or agencies have or will have the legal authority and qualified personnel necessary for the enforcement of such standards criteria, and norms;

"'(5) gives satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards, criteria, and norms;

"'(6) contains satisfactory assurances that such State will, to the extent permitted by its law, establish and maintain an effective and comprehensive health programs applicable to all providers of health care of the State and its political subdivisions, which program is as effective as the standards contained in an approved State plan;

"'(7) requires providers of health care in the State to make reports to the Commission in the same manner and to the same extent as if the State plan were not in effect; and

"'(8) provides that the State agency will make such reports to the Commission in such form and containing such information as the Commission shall from time to time require.

"'(d) If the Commission rejects a plan submitted under subsection (b), it shall afford the State submitting the plan reasonable notice and opportunity for a hearing before so doing.

"'(e) After the Commission approves a State plan submitted under subsection (b), it may, but shall not be required to, exercise its authority with respect to comparable standards, criteria, or norms promulgated under section 1302, for the period specified in the next sentence. The Commission may exercise the authority referred to above until it determines, on the basis of actual operations under the State plan, that the standards, criterions, or norms set forth in subsection (c) are being applied, but it shall not make such determination for at least three years after the plan's approval under subsection (c).

"'(f) The Commission shall, on the basis of reports submitted by the State agency and its own inspections, make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Whenever the Commission finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan (or any assurance contained therein), it shall notify the State agency of its withdrawal of approval of such plan and upon receipt of such notice, such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan.

"'(g) The State may obtain a review of a decision of the Commission withdrawing approval of or rejecting its plan by the United States court of appeals for the circuit in which the State is located by filing in such court within thirty days following receipt of notice of such decision a petition to modify or set aside in whole or in part the action of the Commission. A copy of such petition shall forthwith be served upon the Commission, and thereupon the Commission shall certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless the court finds that the Commission's decision in rejecting a proposed State plan or withdrawing its approval of such a plan is not supported by substantial evidence, the court shall affirm the Commission's decision. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"'(h) The Commission may enter into an agreement with a State under which the State will be permitted to continue to enforce one or more health standards, criteria, or norms in effect in such State until final action is taken by the Commission with respect to a plan submitted by a State under subsection (h) of this section, or two years from the date of enactment of this title, whichever is earlier.

"'PROCEDURES TO COUNTERACT IMMINENT DANGERS

"'SEC. 1312. (a) The United States district courts shall have jurisdiction, upon petition of the Commission, to restrain any conditions or practices by a provider of health care which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this title. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct, or remove such imminent danger or to maintain the capacity of a continuous process operation to resume normal operations without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner.

"'(b) Upon the filing of any such petition the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order pending the outcome of an enforcement proceeding pursuant to this title. The proceeding shall be as provided by rule 65 of the Federal Rules of Civil Procedure, except that no temporary restraining order issued without notice shall be effective for a period longer than five days.

"'(c) Whenever and as soon as the Commission concludes that conditions or practices described in subsection (a) exist it shall inform the affected provider of health care of the danger and that it shall seek relief under this section.

"'(d) If the Commission arbitrarily or capriciously fails to seek relief under this section, any person who may be injured by reason of such failure, or the representative of such person might bring an action against the Commission in the United States district court for the district in which the imminent danger is alleged to exist or the provider has its principal office, or in the United States District Court for the District of Columbia, for a writ of mandamus to compel the Commission to seek such an order and for such further relief as may be appropriate.

"'DEFINITIONS

"'SEC. 1313. For the purposes of this title, the term—

"'(1) "input measure" means assessment based on the qualifications of personnel, facilities, and equipment permitted to provide medical care;

"'(2) "process measure" means assessment based upon the conformance of medical decisions and actions taken in actual episodes of care to some defined standards of medical practice;

"'(3) "utilization characteristics" means those characteristics giving information concerning the rates of usage of components of the health care system such as the length of hospital stays, the number of doctor-patient contracts, and the number of hospital admissions in a year;

"'(4) "outcome measure" means assessment of care based upon health of patients during and particularly at the conclusion of episodes of care. Standards for clinical outcome should be based solely on the results of health care;

"'(5) "Commission" means the Commission on Quality Health Care Assurance;

" (6) reinsurance program" means the Federal Medical Malpractice Reinsurance Program established under part B of this title; and

"'(7) "norm" means a statistical range which reflects the parameters of acceptable quality health care practices existing at the time such norm is promulgated.

"'AUTHORIZATION OF APPROPRIATIONS

"'SEC. 1314. There are authorized to be appropriated for the carrying out of the provisions of this part $15,000,000 for the fiscal year ending June 30, 1974; the fiscal year ending June 30, 1975; and $70,000,000 for the fiscal year ending June 30, 1976.

"'CAPITATION GRANTS TO ENABLE HEALTH MAINTENANCE ORGANIZATIONS OR SUPPLEMENTAL HEALTH MAINTENANCE ORGANIZATIONS TO SERVE ALL PERSONS

"'SEC. 1315. (a)(1) The Secretary is authorized to determine how appropriations under this Act or funds otherwise authorized under law can be utilized, to make annual grants to health maintenance organizations or supplemental health maintenance organizations serving persons who cannot meet the expenses of such organizations' premiums (excluding additional premiums for high option services). The amount of such annual grants being equal to the difference between the maximum amount (as determined by the Secretary) an enrollee could reasonably be expected to pay toward the health maintenance or supplemental health maintenance organization premium and the premium for membership enrollment in such health maintenance or supplemental health maintenance organization for each such person enrolled. A health maintenance or supplemental health maintenance organization shall be eligible for grants under this subsection only during the first three years of its operation.

"'(2) In determining the amount an enrollee could pay toward the premium, the Secretary shall consider all sources (including public sources) of income available to each such enrollee.

"'(3) Grants under this section would not exceed 25 per centum of the total premium receipts for such health maintenance or supplemental health maintenance organization for the next preceding year.

"'(b)(1) Where a health maintenance or supplemental health maintenance organization proposes an increase in its premium rate and the Secretary determines that such increase is due in whole or in part to fulfillment of the requirement for open enrollment, in that such organization has in its enrolled population a disproportionate number of high-risk enrollees, the Secretary is authorized to determine how appropriations under this Act or funds available to the Social Security Administration, as amended, can be utilized to make annual grants to such organization equal to an amount that would eliminate the need for that part of the pro-

posed premium increase caused by such disproportionate number of high-risk enrollees in such organization. A health maintenance or supplemental health maintenance organization shall be eligible for grants under this subsection only during the first three years of its operation.

"'(2) The Secretary shall report to Congress no later than ten days after the submittal of the budget requests for each year with regard to needed legislative authority, if any, to provide capitation grants to enable health maintenance organizations or supplemental health maintenance organizations to serve all persons.'

"TECHNICAL AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

"SEC. 405. (a) Section 1 of the Public Health Service Act is amended by striking out 'titles I to X' and inserting in lieu thereof 'titles I, II, and XV'.

"(b) The Act of July 1, 1944 (58 Stat. 682), is further amended by renumbering title XI (as in effect prior to the date of enactment of this Act) as title XV and by renumbering sections 1101 through 1114 (as in effect prior to such date) and references thereto as sections 1501 through 1514, respectively.

"(c) Sections 767, 768, 769, 769A, and 769B of the Public Health Service Act (added by section 107 of Public Law 92–157) are redesignated as sections 769, 769A, 769B, 769C, and 769D, respectively."

SUMMARY OF SUBSTITUTE FOR S. 14

I. FINDINGS AND DECLARATION OF POLICY

As provided in the Administration bill (S. 972).

II. DEFINITION OF AN HMO

As provided in S. 14, requiring: a detailed comprehensive range of health benefits (except exceptionally high cost benefits can be provided as option at additional premium); degree of risk by provider without reinsurance; by medical groups on a salary or drawing account arrangement; substantial consumer representation on policy board; patient health education services; continuing education of health professionals; no more than 50% of enrollees from medically underserved areas.

III. DEFINITION OF SUPPLEMENTAL HMO

As provided in S. 14, requiring generically: serve large enrolled populations; provide comprehensive range of health benefits; and under organizational arrangements.

IV. AUTHORIZATIONS

As provided in S. 14, *except* deletes subsidy capitation grants' authorizations (and in lieu thereof authorizes Secretary to utilize existing authority from other health programs otherwise authorized under law) and HSO's and AHEC categorical program authorizations (since authorized by generically defined Supplemental HMO as above); and also, the substitute reduces the authorization for initiative awards by $75 million, which results in $705 million in authorizations over 3 years rather than $1.5 billion in S. 14.

V. PREEMPTION OF STATE LAW

As provided in S. 14, because state legal restrictions impede HMO development.

VI. COMMISSION ON QUALITY HEALTH CARE ASSURANCE

As provided in S. 14, except *established in HEW* rather than as independent agency, to determine health care "norms." The substitute also provides that Commission initiative awards can be granted where HMO's otherwise demonstrate in accordance with professional standards their effectiveness and utility.

VII. OPEN ENROLLMENT WAIVER

As provided in S. 14, *except no funding authorized* for potential increased premiums due to acceptance of high risk enrollees during required 30 day annual open enrollment period; open enrollment can be waived by Secretary if it is undue burden on HMO.

VIII. STATE STANDARDS

As provided in S. 14, so States can develop and enforce their own health care standards.

IX. MALPRACTICE

*Deletes malpractice reinsurance provisions* in S. 14, to provide opportunity to Congress to appropriately act on recent 'Report of the Secretary on Medical Malpractice" recommendations aimed at preventing medical injuries, deterring unnecessary malpractice claims, improving the efficiency and fairness of the claims-resolution process, and providing prompt rehabilitation and equitable compensation of medically-injured persons (not available at time of Committee action on issue).

X. WAIVER OF BENEFITS

As provided in S. 14, *except broadened* to authorize Secretary to waive specific services if lack of health equipment or facilities in addition to lack of health manpower requires it.

## AMENDMENT OF SOCIAL SECURITY ACT—AMENDMENT

AMENDMENT NO. 124

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

EXTENSION OF MEDICARE'S KIDNEY DISEASE COVERAGE PROVISIONS TO RAILROAD WORKERS

Mr. MONTOYA. Mr. President, last fall, the Senate added to the then pending social security bill (H.R. 1) an important amendment designed to provide medicare protection for persons suffering from chronic renal disease and for those in need of dialysis treatments or organ transplantation. Unfortunately, however, the amendment, as drafted and eventually incorporated into the Social Security Amendments of 1972—Public Law 92–603—inadvertently omitted coverage of railroad employees, their spouses, and their dependent children. It is clear from the Senate floor debate on the provision that the Senate certainly did not intend to exclude such persons from the benefits of the kidney amendment.

I submit, therefore, an amendment to H.R. 3153, a bill amending the Social Security Act to make certain technical and conforming changes, which passed the House on April 2 and is now pending before the Senate Finance Committee. My amendment is a technical amendment to section 226 of the Social Security Act. It is designed to include railroad employees, their spouses, and their dependent children as among those who would be entitled to the benefits of the medicare program in the event that they are confronted with the burdensome costs of dealing with such a catastrophic disease.

Mr. President, I ask unanimous consent that the text of the amendment be printed at this point in the RECORD. I also ask that there be printed a text showing how my amendment, if adopted, would change existing law.

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

H.R. 3153

On page 1, between lines 2 and 3 Section 226(e) of the Social Security Act is amended—

(1) by inserting "or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1937) after December 31, 1936, were included in the term employment as defined in this Act" after "(as such terms are defined in section 214 of this Act)" in 2(A) thereof;

(2) by inserting "or an annuity under the Railroad Retirement Act of 1937" after "monthly insurance benefits under title II of this Act" in 2(B) thereof;

(3) by inserting "or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1937) after December 31, 1936, were included in the term employment as defined in this Act" after "fully or currently insured" in 2(C) thereof; and

(4) by inserting "or an annuity under the Railroad Retirement Act of 1937" after "monthly insurance benefits under title II of this Act" in (2D) thereof.

CHANGES IN THE LAW

(e) Notwithstanding the foregoing provisions of this section, every individual who—

(1) has not attained the age of 65;

(2) (A) is fully or currently insured (as such terms are defined in section 214 of this Act) *or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1937) after December 31, 1936, were included in the term employment as defined in this Act,* or (B) is entitled to monthly insurance benefits under title II of this Act *or an annuity under the Railroad Retirement Act of 1937,* or (C) is the spouse or dependent child (as defined in regulations) of an individual who is fully or currently insured *or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1937) after December 31, 1936, were included in the term employment as defined in this Act or* (D) is the spouse or dependent child (as defined in regulations) of an individual entitled to monthly insurance benefits under title II of this Act *or an annuity under the Railroad Retirement Act of 1937;* and

(3) is medically determined to have chronic renal disease and who requires hemodialysis or renal transplantation for such disease;

shall be deemed to be disabled for purposes of coverage under parts A and B of Medicare subject to the deductible, premium, and copayment provisions of title XVIII.

## NOTICE OF HEARINGS ON S. 821—THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1973

Mr. BAYH. Mr. President, I wish to announce that the Subcommittee on Juvenile Delinquency of the Committee on the Judiciary is continuing its hearings on S. 821, the Juvenile Justice and Delinquency Prevention Act of 1973. Last year, the subcommittee held 4 days of hearings on S. 3148, which I introduced in the 92d Congress. In this session, we have held 3 days of hearings on S. 821, a slightly revised version of S. 3148, which I introduced on February 8, 1973.

S. 821 is designed to improve the quality of juvenile justice in the United States and to provide a comprehensive, coordinated approach to the problems of juvenile delinquency.

The hearings have been scheduled for May 14 and 15, 1973, at 10 a.m. and 1 p.m., respectively, in room 2228, Dirksen Senate Office Building. The following witnesses have been scheduled to testify

on May 14: Hon. Jerry J. Miller, mayor, city of South Bend, Ind., accompanied by Patrick Gallagher, director, department of public safety, South Bend; Jerry Wurf, international president, American Federation of State, County, and Municipal Employees, Washington, D.C.; Hon. Richard Hatcher, mayor, city of Gary, Ind.; William E. Aull, president, YMCA of Honolulu, Hawaii; Dr. Cecily C. Selby, national executive director, Girl Scouts of America, New York, N.Y.; and Hon. Robert Pastrick, mayor, city of East Chicago, Ind. Witnesses scheduled to testify on May 15 are: Pete Velde, Associate Administrator, Law Enforcement Assistance Administration; a representative from the Department of Health, Education, and Welfare; and Justus Freimund, Director of the National Capitol Office, National Council on Crime and Delinquency.

Any person who wishes to submit a statement for the record should notify Mathea Falco, staff director and chief counsel of the subcommittee at 225–2951.

## ADDITIONAL STATEMENTS

### REPEAL BREAD TAX?

Mr. SCOTT of Pennsylvania. Mr. President, some weeks back I announced my support for legislation to repeal the so-called bread tax which is generally passed on to consumers in the form of higher prices. At that time, I indicated that repeal could mean one of three things: first, a price reduction; second, no increase in price; or third, a price increase. None of these is predictable because of fluctuations in the market and differing operations among the Nation's bakeries. All Americans would like to see a price reduction, but the economic argument tends to support either a "hold-the-line" program or a small price increase. When the very existence of these bakeries is at stake, one must opt for the latter, unless and until there are significant changes in the market factors which really determine price levels.

I ask unanimous consent to print in the RECORD an editorial supporting repeal of the bread tax, from the Somerset, Pa., American's edition of April 25, 1973.

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

REPEAL BREAD TAX?

Senator Hugh Scott is supporting a measure now before Congress that would repeal the "bread tax."

This tax—75 cents per bushel on wheat used for baking—was always difficult for us to understand. The tax is collected from millers and is used to pay a portion of the cost of farm subsidy payments.

The baking industry recently has been caught in an inflationary pinch. The United States wheat sale to the Soviet Union has depleted American wheat supplies and as a result the price has gone up.

At the same time, economic controls have prevented the bakers from increasing their prices accordingly.

Senator Scott, in his support of the repeal measure, says that repeal will save thousands of jobs in independent bakeries and in some cases probably will reduce the price of bread to the public.

The arguments for repeal appear to be good. Bread is an essential commodity and, like milk, one of our few really basic foods. It should not be taxed at all and especially when taxation puts the industry in a financial bind, which seems to be the case now.

The Congress should give this repeal measure full consideration.

### THE PRESIDENT'S SECOND ENERGY MESSAGE AND THE CONGRESS

Mr. MOSS. Mr. President, I have read the President's energy message of 1973 and found it wanting. It is too bland, too meagre and totally lacking in the sense of urgency which must be communicated to the public in order to meet the challenge of the energy crisis.

Our supplies of energy fuels dwindle, we become more and more dependent upon foreign imports, and the long awaited message of the President provides little hope and scant help. I fail to see how the President's actions and proposals will solve the energy problem.

Let me mention three areas in which I believe the President failed in our national energy dilemma.

First, the President has not levelled with the American public on the energy situation. The President fiddles with the energy problem, but he fails to ignite the fire of concern of the American public and glosses over our failures, or calls on the private sector to solve them. To gasify coal, solve the problems of commercial oil shale development and bring solar power into use, to mention just three power sources as yet not totally available to us requires money, brains and a country willing to share an awareness of the problem and the risk of the cost. Congress has not been idle while we awaited the President's message. The 2-year study of the Interior, Commerce and Public Works Committees of the Senate is now drawing to a conclusion under the able leadership of Senator JACKSON and Senator RANDOLPH. This study has sharpened our awareness of the problem and is attempting to bring that awareness and concern to the public.

The Joint Atomic Energy Committee, under the leadership of the able Senator from Rhode Island, Senator PASTORE, has defined the problem in an honest fashion, and I commend to the Senate the report of that committee just issued. The problems of energy supply and demand are serious. They are highly complex. And, interwoven with our domestic concerns are the international aspects of the energy crisis.

The American public is faced with some hard choices. It cannot respond adequately to those choices if it is lulled into thinking that the problem is not a serious one or it is fooled by rhetoric into believing that the administration is meeting its responsibilities.

The severity of the problem cannot be overemphasized. Only through a recognition of the problem are we prodded to take appropriate action. The American public must be given the opportunity to make choices from an educated, adult concept and understanding of the total situation. We have outgrown the Pablum era of feeding the citizenry from on high. The American public deserves the truth in energy matters.

At our current rate of growth, we will need, by 1980, 10 million barrels of oil per day over and above present consumption levels. To put it in perspective, 10 million barrels per day is equivalent to the anticipated production of five new oil fields the size of Alaska Prudhoe Bay. This fuel burning society in which we live must become aware of the situation. We need to develop all of our potential.

Second, the message and plan lack direction and the necessary commitment in the area of research and development. Research and development fund proposals are inadequate. This country has demonstrated with the space program in peace time and in our war efforts in the 40's, the 50's and, unfortunately, again in the 60's a capability to move and move fast when a national exigency required it. American know-how and drive are an essential part of our self-respect, and indeed our greatness. That expertise can be called upon now if we commit ourselves to funding adequately the needed effort.

Let me give you some examples of what I consider to be a bandaid cure for a broken leg. In his 1971 Energy Message, the President called for an expanded program to convert coal into a clean, gaseous fuel, and he recommended the sum of $20 million a year for development of coal gasification.

In hearings which I conducted—July 27, 1971—as chairman of the Subcommittee on Minerals, Materials and Fuels, the President's administrative officers testified against a bill (S. 1846) which Senator JACKSON and I sponsored to accelerate the development of coal gasification pilot and demonstration plants. This bill was structured along the line of the Comsat type corporation so successful in developing rapidly our aeronautic and space sciences successes. The basis of the administration's objection to the bill was that the existing efforts of the administration were adequate. The President's June 4, 1971 Clean Energy Message announced a major new initiative in coal gasification. Yet, the President's representative, S. David Freeman, Office of Science and Technology, Executive Office of the President, testified that in his view it would be the end of the decade before we could count on having an operating commercial coal gasification plant. Do we really need 7 years to get with it?

I did not think this was good enough in 1971, and I do not think this institutional approach of the administration as reflected in the second energy speech of the President is good enough in 1973.

The second energy speech reflects a budget of token increases for coal research, and no promise that the end result of the research and development effort of the past 2 years, is any closer to fruition. A 300-percent increase looks good on paper, particularly starting from zero, but it does not seem to promise the gasifying of coal at the stepped up rate which we need.

The Summary Report of the Cornell Workshop on Energy and the Environment—publication 92–23, dated May, 1972, of the National Fuels and Energy

Policy Study (S. Res. 45)—contains the following statement with regard to the possibility of clean power from fossil fuels:

The key technology is the conversion of coal (which is available in enormous amounts) to low sulfur gas and liquid hydrocarbons. A process for pipeline gas from weakly coking coal is now available (some 35 Lurgi gasifiers are now in operation), but the gas obtained thereby is expensive—well over $1 per million BTU's. The main developmental problem, then, is to reduce the price of clean gas from coal (or possibly from residual oil) to say, 75 cents or, better, 60 cents per million BTU's. Our panel concluded that this was a plausible goal *but that it would require heavy development of a type which is not now underway. The outlook for developing a process for liquifying coal is not very promising at present levels of effort.* (emphasis supplied)

I see no administrative efforts which could qualify as the heavy development called for by the experts at the Cornell workshop.

One more year has slipped by with the administration's penny ante ways, and we are no closer to a solution to this phase of the energy problem.

In July of 1971, the administration in a letter to Senator JACKSON said:

The forming of a special corporation to deal only with coal gasification along the lines presented in S. 1864 is, of course, an alternative administrative mechanism that might have value in the absence of an ongoing joint effort between government and industry.

There was a flurry of newspaper announcements about gasification developments, and that was all.

At that time, I had introduced a bill, S. 2510—reintroduced in this Congress as S. 454—to accelerate development of all the so-called exotic fuels—oil shale, tar sands, solar, and so forth.

Testimony received from industry witnesses—hearing on S. 2510 November 15, 1971 (Serial No. 92–12) p. 71—presented the view that the concept of the bill was premature.

The States of Utah, Colorado, and Wyoming contain vast amounts of oil shale. The known Green River formation deposits are estimated to be capable of yielding 25 or more gallons of oil per ton and a reserve of some 600 billion barrels of oil exists in place.

With the U.S. consumption of oil rising at the rate of 8.7 percent a year, Americans are in danger of becoming dependent on unreliable foreign sources for imported oil. As an editorial in the April 27 edition of the Deseret News, Salt Lake City, Utah, states:

It would be folly for the U.S. to wait until its fuel shortage gets even worse before we take steps toward an orderly development of oil shale reserves.

There is a long leadtime necessary in developing our heretofore unused resources, again, a forceful lead in research and development and cure of the environmental hazards is called for from the administration.

In reading the second energy message and on being briefed by the administration on its contents, I note a studied reluctance to commit funds for research and development because of a lack of trained manpower to use effectively additional moneys.

I am astonished at this position, since the President vetoed a bill (S. 635) designed to train more engineers in the very fields the administration now finds understaffed to meet the energy exigencies. I would point out that such a bill is again before the Congress introduced by Senator HANSEN and myself.

I cannot refrain from pointing out that budget cuts in the energy sector can be disastrous because of the lead time requirements from R. & D. to commercial development.

In my view it is short sighted to take from NASA, an agency with proven capability in solar energy research, and disseminate research moneys in small amounts at the college level through NSF. That kind of leisurely approach to the problem is obsolete.

In the study entitled "An Assessment of Solar Energy as a National Energy Resource" prepared by the Solar Energy Panel composed of representatives of NSF and NASA, appears on page 11 the following statement:

Before solar energy becomes a major source of clean energy for our nation, it will require the involvement of industrial ingenuity and productive know-how to produce economic hardware and services. Some of the difficulties in achieving industry participation are: (1) most companies are looking for short term projects for their new enterprises with return on their investments in 2 to 3 years; (2) long range projects present great risk, and investment capital is very scarce unless there is a high probability of return in a major line in their business; and (3) companies will undergo major change only under crisis (they will take chances but cannot take failure).

To overcome these problems several things are needed. (1) The item needed must be defined very carefully so that the direction is clear and feasibility shown. (2) The Government must make a long range commitment to assure that the interest will not wane in a couple of years. (3) The incentives must be substantial so that future profit is sufficiently assured over a period of time that makes industrial investment pay off. Further, industries must feel that the system is socially acceptable so that the public will look upon it favorably. Solar energy utilization fits into this pattern extremely well.

NASA has years of experience both in-house and through grants and contracts, on solar cells and arrays, thermal engines—turbines and others—and heat storage. Its expertise in rotating machinery as well as knowledge of aerodynamics, could be put to use in tapping such secondary solar sources as wind power and its computer facilities and programing expertise can aid in systems analysis, as applied to energy production, storage, and use.

The President's second energy message is short on the use of this in-house expertise.

Through advanced technology we learn how to do more for less. Is this not precisely our problem in the energy crisis?

Faced with a criss of the proportions we have in energy, the President has proposed modest amounts for advanced technology in energy. He indicates that a large share of such research should be conducted by the private sector. This is unrealistic.

The major thrust of nationally critical advanced technology must come from Government. We should have started this thrust in energy several years ago. Private industry is structured to react to the marketplace. Historically Government protects the longer range interests of the people and I am convinced will continue in this role. I urge the administration to recognize its responsibility to fund nationally critical advanced technology—the discipline of learning how to do more for less—the method of achieving a better life through better utilization of our resources.

In the realm of conservation of energy, the President has soft pedaled the problem. To begin with, military installations should stop converting their energy plants from available coal to hard to get oil.

And, I would ask, how much energy does the United States burn in unauthorized air strikes over Cambodia?

Conservation of energy cannot depend upon the market place alone for in that event it is the average man in middle America who suffers. Allocation of fuels must be on a fair basis. As Lee White, chairman of the Energy Task Force of the Consumer Federation of America said in testimony before the Interior Committee on May 1st—

American consumers are accustomed to problems of one kind or another and are undoubtedly willing to adapt and to be cooperative. We are a patient lot. But the recent past has placed many burdens on the consumer, and many more are clearly visible in the short term future.

The President's second energy message is short on protecting the consumer and in meeting the short term, medium term and long term problems. The consumer is called upon to pay more for his fuel, consider himself lucky if he has fuel on a continuing basis, delay environmental safeguards, use his energy conservatively and select his source of fuel wisely.

Now I have trouble with these admonitions from Mr. Nixon since, according to a report on energy-using markets the Comptroller General dated April 6, 1973—B–178205—energy uses were as follows for 1970:

| | *Percent* |
|---|---|
| Industry | 32.0 |
| Electrical Utilities | 24.7 |
| Transportation | 24.3 |
| Residential | 13.9 |
| Commercial | 5.1 |

Somehow, the message of conservation is being delivered to the wrong address.

Granted the total energy scene is vast and complicated. But the situation cries out for attention.

The challenge also is to the Congress. Together, the Congress, industry, and the Executive can and should resolve the problems.

There are good bills in the hopper which reflect the best thinking of both houses. Let us get on with it.

## NATIONAL ENERGY POLICY

Mr. DOMINICK. Mr. President, all of my colleagues in this body know by now that we are faced with a crisis in our energy supplies. I emphasize the word "crisis" for I do not merely mean that it is a problem to be discussed and mulled over. We need immediate solutions.

It is a crisis when we hear talk about and may fully expect gas rationing this summer or next. It is a crisis when we are told by the Secretary of the Interior that unless we drive slower, shut down our air conditioners and do other things, we will be faced with a fuel shortage.

It is a crisis when small independent businessmen are forced to close down because of a lack of supplies and watch as a lifetime of work and building a business is demolished. Such is happening in many of our States including my own. I am told of constituents in Sterling and Brighton, Colo., who have been cut back or terminated by Shell Oil or Husky Oil. I am sure there are and will be more unless we act soon.

Recently the President issued his energy message containing many worthwhile guidelines in solving our long term fuel problems and research is continuing in various areas to alleviate the expected crunch in the years to come. In my own State, the fine institution of Colorado State University was recently the recipient of a $491,000 grant from the National Science Foundation to be used in researching solar thermal systems for electric power.

We have taken one step to combat the crisis facing us by giving the President the power to establish supplies of petroleum under the Economic Stabilization Act. This, however, is only the first step. My own State legislature has jointly passed a resolution asking Congress to give top priority to implementing a National Energy Policy. I hereby request unanimous consent that that statement be entered in the RECORD as part of my remarks and urge all of my colleagues to join with me in seeking immediate solutions to the crisis confronting us all.

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

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 facilitiate 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 memorialized 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.

## THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, a number of critics of the Genocide Convention have expressed the concern that ratification of this treaty would make a wide range of activities subject to punishment under international law.

Article II of the convention defines genocide as any of the following acts committed with intent to destroy, in whole or in part, a national ethnical, racial or religious group, as such:

First. Killing members of the group;

Second. Causing serious bodily or mental harm to members of the group;

Third. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

Fourth. Imposing measures intended to prevent births within the group;

Fifth. Forcibly transferring children of the group to another group.

The Senate Foreign Relations Committee has attached and recommended two understandings to article II so as to clarify what does and what does not constitute genocide. In a number of previous statements before the Senate on this matter I have attempted to show that the Genocide Convention does not apply to many of the acts which some of its critics fear that it would. The Foreign Relations Committee has enumerated those concerns which are not covered by the Genocide Convention:

It does not alter the rules of warfare, or the obligations of parties to the Geneva Conventions on the treatment of prisoners of war and the protection of civilian persons in time of war.

It does not apply to civil wars as such.

It does not apply to discrimination, racial slurs, and insults, and the like.

It does not apply to voluntary population control measures.

It does not apply to the past.

However reprehensible such actions are, they do not constitute genocide under the terms of the Genocide Convention and the understanding attached to it.

Mr. President, I urge the Senate to ratify the Genocide Convention without further delay.

## COURAGE CAN'T BE PARALYZED

Mr. PERCY. Mr. President, as you and all my colleagues in the Senate well know, I am particularly interested in the problems of the handicapped and in the value of vocational rehabilitation.

The statistics of vocational rehabilitation are very impressive: In Illinois in 1971, for example, 14,001 of the 55,288 individuals served by the Illinois Vocational Rehabilitation Agency were completely rehabilitated. No amount of statistics, no matter how impressive, however, can provide as clear and meaningful a picture of the value of vocational rehabilitation to the handicapped and to society as a whole as can case studies of rehabilitated individuals.

In the Spring issue of the Journal of American Insurance is the story of John McWethy, the midwest managing editor of the Wall Street Journal. Mr. McWethy suffered crippling injuries in an auto accident which left him paralyzed from the chest down. But with an overwhelming amount of personal determination and courage, the assistance of his wife, the services of the Rehabilitation Institute of Chicago, and the intelligence of Mr. Fred Taylor, the Wall Street Journal's managing editor, Mr. McWethy has resumed his previous role as a productive member of the business world.

John McWethy is, of course, to be congratulated for his personal triumph over

his handicap. I wish also to commend Mr. Taylor for recognizing the fact that John McWethy is needed just as much now as he was before his accident.

I would like to share John McWethy's story with my colleagues. I ask unanimous consent that the article from the Journal of American Insurance be printed in the RECORD.

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

COURAGE CAN'T BE PARALYZED

REHABILITATION: A CASE HISTORY

(By Dick Griffin)

John McWethy is working 30 hours a week these days at his job as midwest managing editor of the Wall Street Journal, and you better believe that is some kind of an achievement. And as if that isn't enough, McWethy also recently did the following:

He flew in an airplane, drove a car and went swimming.

He attended an editors' conference in Bermuda, overcoming the fear of facing his colleagues again.

He went to lunch with some old friends in a Chicago club.

He turned himself over in bed.

These are extraordinary things for the 60-year-old McWethy, but then he is an extraordinary person. Since Feb 22, 1971, McWethy has been paralyzed from the chest down and his hands are virtually nonfunctioning. He is a quadriplegic, confined to a wheelchair probably for life, unable to feel sensation in and use most of his body.

McWethy's life changed in an instant two years ago, when he dozed off at the wheel of a rented car on Interstate 70 near St. Louis. The car careened into the median strip at 70 miles an hour, rolled over and crushed the roof.

His visible injuries were minor: a few small scratches on his head, some blood dripping from an ear. But the invisible injuries were enormous. He had suffered in that tragic moment "the most severe injury a person can endure and still survive," in the words of Dr. Joel S. Rosen, Assistant Medical Director of the Rehabilitation Institute of Chicago.

McWethy's neck was broken, the spinal column dislocated and the spinal cord severely bruised at a point high in his neck. It was the bruise to the millions of vital nerve fibers in the spinal cord that was the crucial problem. It instantly paralyzed him, and his physical condition is essentially unchanged today.

But his emotional condition is something else. In these two years he has endured much and visited dark places in his mind that he wishes he had never seen. And he has found in himself a deep-seated determination and courage that seems superhuman to an observer but which Dr. Rosen describes as almost ordinary for spinal-injury victims.

McWethy was near death for days after the accident, and for months the threat of fatal infection was never far away. He learned the horror of bottomless depression and fear and self-pity, and believed he had become a burden to society and his family. He thought it would have been better to be killed in the wreck than paralyzed for life. He considered suicide. He could see no end to his catastrophe and cried easily and often and refused to talk about his massive injuries.

But at some point four or five months after the accident—no one knows exactly when—McWethy began the slow, long and very difficult climb back from despair and into the sunlight once again.

On Oct. 29, 1971, just 35 weeks and 5 days after the accident, he went home from the Rehabilitation Institute in a wheelchair, but with a gut full of determination to rebuild his life. Two days later he was back at work at the Wall Street Journal's Chicago office. He arrived, as he now does every working day, in a wheelchair and wearing special splints that convert wrist movement into gripping action of the fingers.

That first day the Wall Street Journal's editors in New York City sent a Teletype message to the paper's bureaus throughout the country: "John has won the battle."

"Quadriplegics usually do not go back to work," said an official of the Wall Street Journal's workmen's compensation insurance company. "But this man went back to work nine months after he was paralyzed."

This casualty company is experienced in the personal needs as well as the money matters of rehabilitation cases. A member of the American Mutual Insurance Alliance, the company has paid out more than $66,000 in the McWethy case, in addition to guiding his restoration program. This has included assigning a rehabilitation nurse to help serve his individual needs.

"The thing that has kept John alive and going is his work," said Mary McWethy, his wife of 35 years. "When you hear kids today downgrade work, they don't know what a lifesaver it is."

"The most important thing I had to learn," said McWethy, "was to live an inch at a time. Looking back is futile and pointless, and so is looking very far ahead."

He has accomplished so much in these two years that he has amazed the experts, but the supreme accomplishment has been getting back on the job.

"Going to work, day in and day out," said Mary. "That's the really big thing. The winter chills him to the bone, and the summer humidity makes him dizzy, but still he goes to work. He hasn't missed a day's work since he started back almost a year and a half ago."

McWethy can't handle an ordinary telephone, so Illinois Bell installed special ones in his home and office that have a hand piece mounted on a long gooseneck device at his ear level. He struggles to type at his new electric typewriter by using pencils as extensions of his largely paralyzed hands.

He's frustrated by the nuisance of dictating to a secretary. He can write with a pen, but it's a tortuous task involving both hands and his mouth to work the pen between his splinted fingers. Turning the pages of a newspaper spread out on a table before him was difficult to learn, and it still often takes him four or five tries before he succeeds. To accommodate his new needs, the Wall Street Journal lifted rugs, raised desks up on blocks, built ramps over thresholds and had a motorized lift installed at the back entrance to the building.

For insurance purposes he is considered permanently and totally disabled. But it is evident that he is carrying his own weight on the job and he's determined to continue to do so.

"Many men my age are thinking of retirement," he said. "I hope the Journal needs me forever. The most important thing is that I can think. Nothing happened to my mental machinery."

He can't edit stories with a pen or pencil, but others under him can. He can do the more important tasks: conceiving story ideas, guiding reporters in their work, interviewing and hiring young men and women as fledgling reporters.

McWethy was driving to Columbia, Mo., that February day to interview prospective employees at the University of Missouri Journalism School when the accident occurred.

"If he had been out on a Sunday drive instead of working for the Journal," said Mary, "we'd have been wiped out financially." But since he was injured in the course of his employment, he was covered by workmen's compensation insurance for both his wage loss and medical expenses. In Illinois, as in most states today, workmen's compensation provides unlimited coverage for medical expenses.

McWethy dozed off at the wheel and vaguely remembers the tires leaving the pavement and trying to steer the car back onto the road. The next thing he recalls was a nurse asking for his home phone number.

"Why should I fall asleep?" he still wonders. "It was two in the afternoon, I had a good sleep the night before, nothing to drink at lunch and had been behind the wheel only a short time. The terrible thing is, I drove carefully. Never had an accident in my life. Never a night in a hospital. I was anti-pill, never even took aspirin. Now this."

McWethy and his wife suspect the rented car may have leaked deadly carbon monoxide into the passenger compartment. It was a cold day, the heater was on and all the windows were closed. They can't prove their suspicion, but one of their sons wrote an angry letter to Detroit charging the car was defective. The manufacturer sent a team of engineers to tear the car apart piece by piece. The company said it couldn't find any defect.

"I didn't believe the hospital when they called me," said Mary. "I told them they must be mistaken. It must be somebody else. John was so close to being dead when they phoned me that they didn't want me to come. I went anyway. It was so ghastly and unreal, just a few little scratches on him.

"The worst part was realizing how helpless he is . . . was . . . and then accepting that he'll never get over it. There were so many things he could have done in retirement and they were all taken away in a moment."

"They put me in traction," said McWethy, "and it went on forever. Looking at the ceiling day after day for six weeks. It was awful."

On April 4, 1971, he was flown in a chartered ambulance plane from St. Louis to Chicago and taken to the Rehabilitation Institute of Chicago. A fierce snowstorm was raging in St. Louis and the grim weather matched his mood.

He arrived in a mood of "overwhelming despair," said an official of the Rehab. "He would just spill over crying. Treatment began immediately by the Rehab's team of physicians, therapists, psychologists, psychiatrists and nurses, but for weeks McWethy couldn't pull himself together. His body was broken and he couldn't talk about it without tears welling up in his eyes. He briefly considered suicide and wished he had been killed.

"The change didn't come overnight," said Dr. Rosen, "It seldom does."

But it did come. At the Rehab he learned to focus on his abilities, not on what he had lost. Therapists helped him strengthen what muscles he still controlled in his arms, shoulders and wrists. He learned to do the little things that suddenly became monumentally important.

"The greatest thing on Earth," McWethy says, "is learning how to do something for yourself instead of having somebody do it for you. Talk on the telephone. Drink from a glass instead of through a straw. These are priceless. It took me a month to learn how to use a fork without spilling everything before it got to my mouth. Learning to eat peas from a spoon was a dastardly experience. Soup is impossible to balance on a spoon, and it's almost worth my life to lift a full eight-ounce glass. I use a plastic tumbler. Heavy flatware, like the hotels use, sort of defeats me."

He relearned job skills, like using a phone and typewriter, writing with a pen, turning the pages of a newspaper.

"When we brought him to the Rehab," said Mary, "I was in complete despair to put him among that maze of legless, crippled, paralyzed people. I came home and wept bitterly that night. But we quickly learned that there was more courage in one broken man struggling to learn to eat than in a hundred healthy men. They seem to make cruel demands on the patients, but you learn they're trying to make them tough. They have to make them tough."

Crucial factors in successful rehabilitation, according to Dr. Rosen, are personal courage, outside support and goals to be achieved. McWethy has all three.

Some employers abandon crippled workers, said Dr. Rosen, but the Wall Street Journal stuck behind its man. Fred Taylor, the newspaper's managing editor in New York, wrote McWethy in the summer of 1971, when his editor's mood was still dark:

"As you must know, but I think it bears stating, your value to the Journal lies not in your ability to hop, skip or jump, but in your judgment of people and news, which has proved over the years to be high. We can always hire someone to hop, skip and jump if we neeed those activities."

Taylor invited him to return to work when he was ready, part-time or full-time. In time, going home from the Rehab and returning to work developed into goals that almost became obsessions.

The three McWethy children, all married and living out of state, also rallied around, as did friends and neighbors. Literally thousands of persons who knew McWethy wrote and phoned from across the country—and helped him realize his life was still worth living.

Some spouses shrink from calamities and run away from home. Others crack under the constant strain. Not Mary Helen McWethy.

"Mary has taken the brunt of it," said John. "At an age when she should be just horsing around playing bridge and doing church work, she's fixing the refrigerator and making the dishwasher work and handling the checkbook. And taking care of my many needs."

Several persons familiar with the case call her the most important factor in the successful rehabilitation of John McWethy. She cajoled and goaded him into accepting what had happened and trying to rebuild his life. In the bitter months after the accident she rarely left his side, and she stuck with him through all the grief and the terrible climb back to the sunlight.

She pushes him still, urging him to do more and criticizing him matter-of-factly when he drops a playing card or protests that an arm exercise is too much. When he expresses pessimism she quickly challenges him and counters with an optimistic statement.

The tragedy has strengthened his faith in God, John says. "When everything is dandy, you don't think much about God, I guess. But when you're lying in bed and wondering if you'll ever walk again . . . if you don't have faith, you sure grab for some. I think I had some before, and I have more now."

His home in Western Springs, Illinois, has been worked over with assistance and guidance from the Journal's workmen's compensation insurance company to serve his new needs. A motorized lift moves him between the rear porch and ground level. A long concrete walk has been poured next to the house so that he can be wheeled to the car out front. The bathtub was taken out and replaced with a shower. Rugs have been stored away. On the car roof there's a hydraulic lift that can move him in a sling between wheelchair and passenger seat of the car.

Each weekday morning a young man hired by the McWethys lifts John from his bed, dresses him, transfers him between wheelchair and car and drives him to the office and back. McWethy wears a dress shirt, tie, suit pants and windbreaker jacket to the office. But once inside the building he replaces the windbreaker with a suit coat. He wears it only until he gets upstairs to his office, where he removes the suit coat and works in his shirt-sleeves, typical newsroom dress.

"It's a little fiction to do all that, I suppose, but I think it's important not to look like a slob," he said. "That would be too easy."

He's determined to test the limits of his professional and personal abilities and is finding them to be wide despite his handicap.

When he went back to work in 1971, one of his goals was to attend the annual editors' conference in Bermuda in September 1972. He hoped he would be up to it.

A Wall Street Journal editor in New York got key information for him—how many steps would he have to be carried up at the hotel and how wide the doorways are. The English cars on the island were too small, so a Chevrolet was turned up. Commercial air transportation would have exhausted him, so the Journal sent its own Grumman Gulfstream II to Chicago to pick up John and Mary and John's brother, and took them all to Bermuda and back. For John it was a happy trip—and a boost for his self-confidence.

Another important ambition was to learn to turn himself over in bed. Every night Mary, although exhausted, had to get up and roll him over. Last May, with the help of the insurance company, John went to Denver and spent five weeks at the Craig Rehabilitation Institute, which specializes in spinal cases. He learned to turn himself over. While there, he also drove a car—specially equipped with hand controls—for the first time since his accident. And he "went swimming"—actually, floated in a pool on an inner tube.

"Craig helps give a man back some of his lost manliness," said Mary. "It was good for John's pride and self-confidence. Because of the Rehab in Chicago, and Craig and the Journal, we are far better equipped today to cope. Problems, we realize now, are temporary things. The day's troubles and little problems used to throw John into the depth of despair. Now he can accept them."

The McWethys have what they call a "massive goal," one they've had since he left the Rehab and which continues to elude them. They desperately want John to learn to transfer himself between wheelchair and car, so they can be less dependent on outsiders.

"With six months at Craig, John could possibly strengthen his arms sufficiently to be able to transfer himself," she said. "But he'd have to choose between working and full-time therapy, and the work won."

He badly misses the freedom to go out to lunch on workdays. "It would take half the day," he said. "We'd have to start an hour early to get me there. And are there any steps in the building to block me? Would the table be high enough to get the arms of the wheelchair under it? Maybe the glasses would be the wrong shape or too heavy for me to pick up. Who would cut my meat? Maybe the food would be the wrong kind and I couldn't get it into my mouth."

McWethy eats alone in his office at noontime, nibbling at half a sandwich and drinking some of his required several quarts of water ("Even water in great quantities gets to taste awful") and three pints of cranberry juice ("Yuck, I hate the stuff") to acidify his urine and avert urinary infections.

But he did get out to lunch recently with old friends, endured the problems—and had a good time.

He stays alert to threats that don't disturb most people. Respiratory ailments can be deadly because he has lost most control over his breathing and can't effectively sneeze or blow his nose. Kidney and bladder diseases are constant threats. He could break his leg or suffer acute appendicitis and feel nothing. Bed sores, or pressure ulcers, are fearsome.

If his pants bunched up under him he could develop a severe sore in as little as 30 minutes. That could put him in a hospital for a month and cost from $3,000 to $20,000 to correct.

He is cautious but not intimidated by such dangers, any more than he seems intimidated now by his physical limitations—or to be wishing hopelessly for it all to go away. And he can talk about it all now.

"Anybody who has had a spinal injury hopes for a miracle," he said quietly. "For heaven's sake I hope for one, too. But you also have to face life the way it is and do the best you can. My immobilization really hasn't changed very much since the moment I was paralyzed. Will I ever walk again? The chances seem heavily against it."

"What's done is done," said Mary. "It's obvious you don't gain anything from despair. We're really looking forward to a good life. Fortunately, John is very resourceful, and this catastrophe has made us realize how very much our friends and family and church mean to us."

## NEED FOR RECYCLING INCENTIVES

Mr. MOSS. Mr. President, in spite of the widespread public support for environmental preservation through the recycling of resources, it is becoming increasingly apparent that the good will of the public needs more than congratulation by the Government. Legislation creating substantially new departures is necessary. We must make the marketing of recycled materials economically profitable on a broad scale.

Though I applaud the millions of Americans who have diligently gathered up their newspapers, tin cans, and other refuse and delivered it to the local recycling center faithfully each weekend, we must recognize that this activity only effects the supply aspect of the recycling question. Unless demand for products made from recycled materials is increased we will not solve the solid waste problem.

On April 16 I introduced the Resource Recycling and Conservation Act of 1973, S. 1593. This bill would, First, create market conditions encouraging the use of recycled products by requiring Federal purchasing of such items; second, remove tax and freight rate discriminations; third, set product durability standards; fourth, stimulate energy recovery from waste; and fifth, create loans for municipalities to tackle their solid waste problems with modern techniques.

I hope that this issue will attract prompt and serious consideration in hearings. Congress will have to take the lead, for the administration has defaulted on solid waste and recycling programs.

Mr. Barry Newman of the Wall Street Journal has written an article in the May 9 issue clearly outlining the recycling problem. I believe that Congress and the public should find this article of interest, and I ask unanimous consent that it be printed in the RECORD.

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

RECYCLING BACKLASH

(By Barry Newman)

NEW YORK.—John Bambino is a powerfully built, 28-year old, second generation junkman. Since getting out of college and inheriting his father's business seven years ago, Mr. Bambino has been roaming around this city with two trucks and two helpers scavenging in the back alleys of apartment houses for anything worth selling.

It's a life of excruciating physical labor (he and his men load 240 tons of newsprint a month) combined with the distasteful task of coddling superintendents who grant access to their tenants' castoffs. Until recently, the work at least netted a profit. "Eight months ago we were getting $22 for a ton of newsprint," Mr. Bambino says. "Right now it doesn't pay me to work. I make as much as my men do and I have all the headaches."

Mr. Bambino is selling newsprint for $13 a ton these days, and he blames the depressed price on competition from voluntary recycling centers. "Everybody's into recycling," he says. "But there isn't any market for all this paper. There's no way I can stay in business. I'm really at the end of the line."

On a very small scale, Mr. Bambino's trials reflect what might well prove to be the chief economic consequence of the environmentally motivated recycling movement: the flooding of already existing markets for secondary materials with previously untapped supplies of urban waste.

SHIVERING AT THE THOUGHT

The prospect of depressed prices that might result from such large-scale municipal recycling is sending shivers through the country's $8 billion-a-year secondary materials industry, which currently culls its supplies from such sources as factory waste and demolition projects.

The possibility of glutting markets, moreover, has doomed many large-scale recycling efforts contemplated by municipalities beacuse consistently high prices are needed to make such attempts economically worthwhile.

A number of bills are being introduced in the current congressional session intended to salvage the situation by expanding markets for recycled materials through such means as tax incentives. But these proposals are evoking irate opposition from the nation's vast virgin-materials industries and the railroads that haul for them.

In a reversal of a policy that was once almost taken for granted, the Nixon administration has pulled back its support this year for such federal recycling incentives. The upshot has been bitter dissension within the Environmental Protection Agency.

In the midst of this furor, the general public continues to support enthusiastically the country's 4,000 or so volunteer recycling programs. However, it seems clear that these ventures, often subsidized by image-conscious industries such as can and bottle makers, do more to raise public awareness of the environmental advantages of recycling than they do to demonstrate the economic viability of recycling urban wastes on a giant scale.

NOT PROMOTING MARKETS

New York City's "Trash is Cash" program, probably the largest citizen recycling effort in the country, is a good example. "We aren't set up to help promote markets for anybody's scrap," says Steve Batty, who directs the program. "What 'Trash is Cash' is all about is helping community groups get involved in recycling on their own neighborhood level."

As such, the program might have been misnamed. Two men on a truck picked up 12,000 tons of glass, cans and newspapers last year. This was sold for about $20,000, covering only 60% of the program's costs. The rest came from businessmen's groups supported by industry. Markets for the material weren't hard to find. "When you have the glass container manufacturers giving you money," Mr. Batty says, "you hear about where you can sell the stuff."

By the end of 1973, "Trash is Cash" expects to be breaking even. Still, this feat will be performed with volunteer labor peeling labels from tin cans, crushing glass and baling newspaper. A private trucker like Mr. Bambino couldn't do the same. When private industry as well as city governments must pay union wages, the chances of breaking even on the sale of municipal wastes are slim. Even under current conditions, without the infusion of urban waste, recycled materials are at a disadvantage in the marketplace.

For one thing, recycled products cost more to make (the one notable exception being newsprint). A ton of writing paper made from recycled waste costs $20 to $30 more a ton than the same thing made from virgin pulp, according to the federal EPA. Recycled glass costs as much as $23.77 a ton to produce, compared with $18.43 for the virgin product.

A DECLINE IN RECYCLING

On the way to the factory, moreover, secondary materials cost more to ship. Rail rates for scrap steel, for instance, are $4.61 a ton, while the rate for iron ore is only $1.84 a ton over comparable distances. Virgin materials also benefit from depletion allowances, or tax benefits for the consumption of a natural resource. In the case of the steel industry, for example, it's estimated that prices would have to be 13.5% higher to produce the same profits now obtained with the help of depletion allowances.

All this has contributed to a reduction rather than an increase in the use of secondary materials over the years. In the paper industry, for one, 35% of all production was recycled in 1945. The rate of reuse in 1972 was only 21%. (Aluminum, an exception, is being recycled at a higher rate than ever from discarded cans.) But the work of collecting the cans is done almost exclusively by volunteers.)

So, despite flurries of publicity about new recycling plans in many municipalities, on a broader scope, "there is no apparent move to install resource recovery systems" in the nation's cities, according to an EPA report released to Congress at the end of February.

"We're kind of embarrassed that there are lots of environmentalists running around on the recycling issue," says Heather Ruth, who heads New York City's search for new places to put its monstrous 30,000 ton-a-day load of garbage. "We haven't yet seen a situation where all the labor we might put in would be justified by the sale price." The city is opting instead for ways to convert its waste into steam energy.

New York nevertheless is toying with selling some waste to partially lighten the tax load of disposal costs. But marketing is a problem. The city has, for instance, contracted with a small company that converts trash into compost. "It's probably true that if we doubled the current capacity, they couldn't sell the other half," Miss Ruth says. "This is probably the worst place in the world to sell compost on a per capita basis."

A city closer to agricultural markets might be able to find more compost buyers. But it would still face the possibility of glutting the market with new supplies, as New York does in an experimental curb-side pickup system for newsprint. Miss Ruth concedes that "if we really had the most effective and most widespread newspaper recycling program, we could dampen the price in this area. We're big enough to really cause a problem."

Fear of such potential disruptions has prompted trade organizations like the National Association of Secondary Materials Producers to campaign with a blizzard of literature against the creation of any recycling program that might glut existing markets for waste.

CHICKEN OR EGG?

"Collections unsupported by market outlets can actually be counterproductive to recycling," says a 1972 booklet distributed by the association. "They can only serve to weaken the entire supply-demand balance and reduce the value of recoverable solid waste below the point at which it is possible to economically collect, transport and process it."

Manufacturers, on the other hand, are reluctant to build plants that process urban wastes unless the supplies are guaranteed ahead of time. The result is a chicken-or-egg riddle: "Nobody's going to build a plant unless the city can guarantee the supply," says Robert Nathan of New York's Council on the Environment, a private group. "But the city won't produce the supply until somebody guarantees to buy it."

For the cities and the secondary material people, the best solution would be federal legislation making wastes competitive with virgin materials. Ideas in bills being drafted range from a proposal by Sen. Edmund Muskie requiring specific percentages of virgin materials in packaging to Sen. Philip A. Hart's suggestion that a tax be slapped on anything made from virgin material. The bills also ask for the equalization of freight rates for secondary and virgin shipments. Though nobody is going so far as to seek it this year, the backers of these plans envision an end to depletion allowances as the ultimate answer.

The nation's virgin-materials industries aren't full of admiration for such suggestions. The steel industry, for instance, says it will have to spend $10.35 billion by 1976 to control pollution, with very little borrowing power left to build 30 million tons of new capacity it says the country will need by 1980. Any legislation that might reduce its income in the meantime is anathema.

AFTER 700 YEARS, WHAT THEN?

"The problem isn't conservation of natural resources," says Fred Tucker, environmental chief of National Steel Corp. "We have enough iron ore to last the steel industry another 700 years. The problem is what to do with municipal solid waste."

Railroad men are equally vehement in opposition to any scheme to equalize feright rates. Robert Hamilton, executive vice president of Southern Railway Co., says virgin and scrap materials "aren't interchangeable by a damn site. They don't load the same and they don't use the same equipment. Virgin material moves in great volume from one point to another and scrap comes from everywhere."

Environmentalists and the secondary industries may have scored a point in the current railroad rate case before the Interstate Commerce Commission. With some goading from the courts, the commission is asking for statements on the environmental impact of unequal rates for recyclable material before further general increases are made final.

But this victory is more than nullified by the setback recyclers received when the Nixon administration withdrew its support earlier this month for federal legislation providing incentives for waste recovery. The administration introduced a "Hazardous Waste Management Act" at the end of February that confines the federal role to wastes that might harm health. The bill doesn't mention recycling.

Even under the current Resource Recovery Act, whose life has been extended for another year, EPA's Office of Solid Waste Management is having its budget trimmed in fiscal 1974 to $5.8 million from $30 million

this year. Its staff will be reduced to 120 from 320.

This is happening despite EPA's implied endorsement of a wider federal role in its recent report to Congress on resource recovery. (The report was reportedly withheld for months before it was forwarded.) And it is happening despite EPA's previously open commitment to the encouragement of recycling through government incentives.

Explanations for the administration's stand range from behind-the-scenes industry pressure to a shift in philosophy away from federal subsidies and to a belief that the solid-waste problem is a local one. But the impact is the same. "Our use of resources is a nightmare of insanity," says one disgruntled EPA staffer. "But saying that is dangerous because I work for a President who just said we don't have to do anything about it."

Without government help, some solid waste experts say, the whole idea of recycling ought to be scrapped. One alternative is put forth by American Hoist & Derrick, the largest maker of scrap-handling equipment in the country.

The company is crushing waste from St. Paul, Minn., down to dense blocks and burying them in landfills free of flies, rats and birds. John Carroll, president of the concern, suggests it would be economical to ship these blocks to abandoned quarries and mines, with an eye toward mining them in the distant future for the material today's society doesn't consider worth recovering.

Recycling is impossible today, Mr. Carroll says, "unless you have the services of the Boy Scouts, the handicapped, prisoners and otherwise idle people" who will work for next to nothing. Without them, he says, "there isn't any method known to society in which you can separate out material routinely at high volume and at union wages and make it sensible."

## WILLIAM ELY

Mr. DOMINICK. Mr. President, as a former Air Corps pilot in World War II and a member of the Senate Armed Services Committee, I want to pay tribute to a man who served this country with distinction and in a significant role in the production of aircraft components during the Second World War. I refer to Mr. William Ely of Pittsburgh, Pa. The accomplishments of Mr. Ely have recently been brought to my attention by his son-in-law, Mr. Thomas A. Gilliam of Denver, Colo., and I believe it is fitting that my colleagues be apprised today of the outstanding efforts of one man to insure that our defense supply lines would not falter during those critical days.

Mr. Ely began his professional career with Pittsburgh Plate Glass prior to World War II and was manager of the PPG plant in Belgium at the outbreak of hostilities. He escaped from Belgium just ahead of the Germans, traveled across France and returned to the United States.

At the PPG plant in Pittsburgh, Mr. Ely was placed in charge of one of the more pressing activities facing the company: the manufacture of windows and turret glass for our military aircraft. As you can well imagine, Mr. President, development schedules for the wide variety of new shapes and types of glass were demanding in the extreme, as were all of the phases of production and delivery. As an economist by early training, Mr. Ely monitored this entire production operation, using his skills in personnel management to obtain the highest performance from the production teams. In the words of one close associate during those years:

William Ely had an intense personality; he was a perfectionist with tremendous energy who was able to obtain continuous high level performance from the entire operation. Because of his personable manner, he lost no friends and was highly regarded by all who served under him.

Mr. Ely is described by one PPG colleague as "the flywheel and the catalyst for the important wartime production effort. He could exchange ideas, stimulate, and get results."

Mr. President, to give you an idea of the importance of this man to the PPG effort, let me say that one of the most demanding jobs ever received by the company during the war was the rush production of the large greenhouse noses of our large, troop carrying gliders. This task, on top of all other production demands, placed a severe strain on everyone, but particularly William Ely. There was tremendous concern throughout the production run that the gliders would be delayed for lack of glass, and PPG had been advised that the gliders were of critical significance in the invasion of Europe. In spite of the tight schedule, I am told that not one glider was ever delayed for lack of glass. His colleagues at PPG rate this accomplishment as one of the high points of Mr. Ely's career.

I am sure that there are many other fascinating stories of the accomplishments of William Ely and others like him which have gone unnoticed by most of us over the years, and I am grateful to Mr. Gilliam and to Mr. Ely's former associate at PPG, Mr. A. D. Nutter, for bringing these facts to my attention so that I could publicly express my appreciation to Mr. Ely and all of those who served in our defense industry during that and other wars, supporting our combat forces overseas.

## NEED FOR RUNAWAY YOUTH SERVICES

Mr. BAYH. Mr. President, as chairman of the Juvenile Delinquency Subcommittee and as the father of a 17-year-old boy, I have been deeply concerned about the problem of runaway children. At least 1 million young people run away from home every year. Without direction or assistance of any kind, they too often fall prey to the pusher, the hustler, or the street thug. On May 3 the Washington Post carried a story of a very recent runaway, a beautiful young high school girl who left her home in Virginia without any advance warning. She, like many young runaways, will need temporary shelter care and counseling help to facilitate a successful return home. Without these services, runaway children are often forced into criminal activity to support themselves, even temporarily; and without counseling and advice, the runaway event is usually repeated.

My Juvenile Delinquency Subcommittee conducted hearings last year on the runaway youth problem. All our witnesses emphasized the lack of adequate shelter care facilities and counseling services for these troubled young people. In response to this need, I developed the Runaway Youth Act, which passed the Senate last July as S. 2829. At the time of adjournment of the 92d Congress, the Runaway Youth Act had been favorably reported by the General Education Subcommittee of the House Education and Labor Committee.

At the beginning of the present session, I reintroduced this measure as S. 645. On May 1, 1973, the subcommittee directed that it be reported to the full Judiciary Committee. S. 645 has been cosponsored by 23 of my colleagues, and I am hopeful that it will be enacted into law in the near future.

Mr. President, at this time, I ask unanimous consent that the Washington Post article be printed in the RECORD.

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

PARENTS AGONIZE OVER MISSING GIRL

(By Joseph D. Whitaker)

The last time Robert and Janice Shelton of Springfield saw their 16-year-old daughter, Robin Lee, was around 10 p.m. on March 7. She was lying quietly across her bed, doing homework as usual. The next morning, when Shelton stopped by Robin's bedroom before he went to work, he found an empty bed and a note:

Dad, Mom & Laurie, I'm sorry to hurt you all, but I really have to get away. I know this will hurt you, but I love Keith. I can't stand it, I really can't. Please don't worry cuz I know that God loves me and will protect me. I'm sorry. Maybe now we'll all be happy.

Robin Lee thus became one of an estimated 10,000 children between 14 and 17 years old who will run away from home in the Washington area in 1973. Half will be boys, half girls. And the plight of the Sheltons illustrates the agony that many of them will leave behind for their parents to experience.

"These young people are just trying to get away from the pressures of family and school and a society which says 'We'll recognize you as a person after you've graduated from college into the job market.'" said Robert Foster, of the Youth Development and Delinquency Administration at the Department of Health, Education and Welfare.

The Sheltons first searched the neighborhood, called bus stations, cab companies, and area airports, but could locate no one who had seen Robin. They finally called the Fairfax County police and reported that their child had run away.

"For a whole week, my husband and I worried so much we couldn't go to work," said Mrs. Shelton, who also has a 12-year-old daughter, Laurie. "Were frightened and worried sick." After waiting a week and not hearing from Fairfax County police investigators, Mr. and Mrs. Shelton relieved their agony by hiring a private investigator at $12.50 an hour.

"The police told us they had more cases than they could handle and that runaways are low on their list of priorities," and Mrs. Shelton. "We love our daughter and we're willing to spend the money to get her back." Nicholas R. Beltrante, director of the detective agency hired by the Sheltons, said that, increasingly agencies like his own are being retained to locate the runaway children of middle- and upper-income parents who feel they get quick results.

"Most police departments don't have the resources to send investigators across the country following a runaway child," said Beltrante, who said his agents handled more than 50 cases last year. "But I've assigned two investigators to this one case. . . ."

Beltrante said that most runaway children never go more than three to five miles away

from home—although others may just as easily be found as far away as California or the state of Washington. Investigator D. O. Doss, who was assigned to Robin's case, said the Fairfax County police department receives between 85 and 90 reports of runaways daily. However, most of them return home on their own after two or three days, he said.

Det. Doss said that publicity about runaways will seldom "actually help us locate our subject." Robin's story is told here only to illustrate the runaway problem.

Several authorities said most runaways leave home in early spring (when temperatures are agreeable to camping, light dress and setting up of beach communities) and in the early fall, when school is resuming (and youths are reluctant to go back to the problems they associate with school).

Mrs. Shelton said her daughter became depressed recently when she broke up with her boyfriend. "Robin was never one to show strong emotion. We had no early indication that she was planning to run away," Mrs. Shelton said. "She accepted her parents' decisions and never rebelled." Robin, described by her mother as "very religious," is a member of Franconia Baptist Church, where she plays the organ every other Sunday for the youth choir. At Robert E. Lee High School, Robin was a high-ranking student and a cheerleader.

When she left on March 7, she took $70 of her own savings and a flight bag containing what Mrs. Shelton said was a "Sunday dress and a Sunday pair of shoes."

She also took her Bible.

## THE FUEL SITUATION WORSENS IN MINNESOTA

Mr. HUMPHREY. Mr. President, the State of Minnesota continues to feel the effects of gasoline and diesel fuel shortages. I have just received the latest report on this situation—from Minnesota's Director of Civil Defense, Mr. James Erchul. The report was originally sent to the Minnesota legislature and to region 5, Office of Emergency Preparedness in Chicago, Ill. I ask unanimous consent that this message be printed at this point in the RECORD.

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

DEPARTMENT OF PUBLIC SAFETY,
CIVIL DEFENSE DIVISION,
*St. Paul, Minn., May 3, 1973.*

To: Minnesota Legislature.
From: F. James Erchul, Director.
Subject: Teletype Message Regarding Fuel Situation.

The following is the teletype message which we sent to Region 5, Office of Emergency Preparedness, Chicago, Illinois, concerning the fuel situation:

A. Estimate of fuel situation:

More fuel businesses have closed. Others are limiting hours and/or amounts.

1. Gasoline—Additional closings continue to be reported.

2. Diesel fuel—Truckers report inability to secure renewals of fuel supply contracts.

B. Effects of fuel shortage on people:

Unemployment continues to rise as shortage effects are being felt by dependent industry.

C. State activity:

Fuel related bills continue to be discussed in legislature. Civil Defense continues to put extra supply together with people who are short.

D. Industry activity:

Phillips Petroleum notified service stations they are being cut 10 percent from comparable months a year ago. Standard Oil announced allocations to last year's levels. Estimated demand is 7–10 percent greater than a year ago.

E. Publicity accorded fuel shortage by news media:

News media continue to highlight stories on fuel shortage.

F. Major problems:

State is unable to determine how much petroleum suppliers intend to sell in Minnesota.

G. Comments:

Although some industry experts are predicting a, "shortfall of 2 percent in gasoline supplies," it appears it will be more than that in Minnesota.

Recommendations: Federal Government regulate a proportionate share of total petroleum supply to each State based on a historical formula.

OEP help Minnesota officials determine the marketing intentions of major suppliers.

## AID TO NORTH VIETNAM OPPOSED

Mr. ROTH. Mr. President, I have just received a copy of House Resolution 58 of the State of Delaware House of Representatives. This resolution vehemently opposes payments of any kind to North Vietnam for reconstruction of that country. So the Members of this body will have an opportunity to learn the sentiment of the Delaware House of Representatives on this important national issue, I ask unanimous consent that the resolution be printed in the RECORD.

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

HOUSE RESOLUTION NO. 58

Expressing vehement disapproval to appropriating any aid for the purpose of reconstructing North Vietnam

Whereas, the members of the House of Representatives of the 127th General Assembly are adamantly opposed to the spending of money or giving of other foreign aid for the purpose of rebuilding North Vietnam; and

Whereas, to give foreign aid for the purpose of reconstructing North Vietnam undermines the courageous efforts of the Americans who died in Vietnam as well as those who were fortunate enough to return home; and

Whereas, it is the feeling of the members of the House of Representatives of the 127th General Assembly that funds available for such purposes could be utilized to a much greater effect by using such funds for domestic purposes and in helping those who served in the war to find jobs.

Now, therefore:

Be it resolved by the members of the House of Representatives of the 127th General Assembly of Delaware that the appropriating of aid for the purpose of reconstructing North Vietnam is vehemently opposed.

Be it further resolved that a copy of this resolution be forwarded to Senators William V. Roth, Jr. and Joseph R. Biden, Jr. and Representative Pierre S. duPont, IV in their respective Washington offices.

## GASOLINE RATIONING

Mr. GRAVEL. Mr. President, there is no doubt that the United States is in the throes of a critical energy shortage that threatens all of us. For the past several months we have been talking about a possible gasoline shortage which will have far-reaching results.

The most serious result will, of course, be for transportation of employees to and from work. While all of us will suffer in some degree, those involved in the tourist industry for a livelihood are quite likely to be only partially employed—or not employed at all—this summer. Widespread unemployment will result in the transportation and related industries. This further emphasizes the urgency for prompt action in clearing the roadblocks for construction of the trans-Alaska pipeline.

In last night's Washington Star there appeared an article by Roberta Hornig concerning a rationing system of gasoline instituted by Amoco in the Illinois tollway system. This is merely a forerunner of things to come.

I ask unanimous consent at this time to have the article printed in the RECORD.

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

FILL-'ER-UP BARRED ON TOLLWAY

(By Roberta Hornig)

The Amoco Oil Co. has announced it will limit gasoline sales to about a half tank per car at its stations on the Illinois Tollway system, because of fuel shortages.

A company spokesman said yesterday that beginning at 7 a.m. tomorrow, Amoco stations will "temporarily" limit gasoline sales to 10 gallons per passenger car and 35 gallons of diesel fuel per truck.

The announcement of the direct rationing of gas to motorists follows Amoco's "allocation" program to all its gas stations that went into effect May 1.

Amoco Oil Co. is a subsidiary of Standard Oil of Indiana.

Standard Oil Co. of California announced yesterday that it is limiting gasoline supplies to its service stations because of "exceeding high demands."

Several other oil companies also plan to allocate gas to their stations but Amoco's move is the first time a major oil company has ordered its stations to ration gas to motorists.

Amoco has gasoline concessions on the Tollway system, which includes several toll roads with several offshots running from the Chicago area to the Wisconsin-Indiana State Toll Highway Authority, which approved the rationing plan, said it did so reluctantly, but that "it seemed to be the best alternative to assure equitable distribution of available supplies to all motorists."

An Amoco spokesman said that if the company had not initiated its nationwide allocation program to gas stations "a supply-demand imbalance would have almost certainly led to widespread runouts of gasoline and diesel fuels this summer."

Amoco decided to directly ration motorists on the Illinois road because, under its contract with the state, it is committed to keep its stations open 24 hours a day seven days a week.

Stations that come under the general allocation rules will have the option of keeping shorter hours or closing one day a week if their fuel supplies run dry, the spokesman said.

The spokesman added that gasoline is scarce with the recent lifting of the oil import quotas. One reason the lifting of the quotas has not brought in enough oil is a scramble for Middle East oil by several American companies and the Europeans and Japanese.

In another energy development, 35 senators sent a letter to President Nixon yesterday urging him to start allocating petroleum products instead of leaving it up to oil companies.

While administration energy experts are still claiming only "spot shortages" of fuel, several transportation industry officials yesterday told the Senate Banking Committee

fuel shortages appear to be fairly wide spread and worsening.

The bleak energy picture was given by representatives of the bus, inland waterway, airline and railroad industries and the farmers.

Some of the key points.

A vice president of Greyhound Lines, Inc., said fuel shortages "have already had an effect on Greyhound's operations and represent a serious potential threat to the nation's transportation system."

Paul R. Ignatius, president of the Air Transport Association, said fuel shortages have already occurred at some airports and his organization has asked the federal government to release aviation fuel bonded for international flights for domestic consumption.

James R. Smith, president of the American Waterways Operators, Inc., a national trade association of transport towboats, tugboats and barges said diesel fuel shortages have so far been spotty except in the Midwest where some towboats traveling north on the Mississippi River from the Gulf Coast have been stranded in the St. Louis area because they were unable to buy fuel there.

He warned of a "ripple effect" of fuel shortages, saying 58 percent of the tonnage carried on inland waterways is fuel for other industries including electric utility.

A spokesman for the National Farmers Union said farmers are concerned about getting enough fuel for running their tractors. Two factors are at play in the Midwest: a Nixon administration request to farm 50 million more acres to bring down food prices and an extremely late planting due to the Mississippi floods. Because of the delay farmers have to work longer hours later this month and early in June to get their crops in the ground, and therefore will require more fuel faster, the spokesman said.

The New York Times quoted official sources as saying the administration expects to announce within a week a voluntary system . . . gasoline supplies and possibly other petroleum products.

A possible formula, the Times said, would be to ask major suppliers to put cutbacks of deliveries on a uniform basis—the same percentage to all customers including its own outlets.

## PROBLEMS FACED BY LAW ENFORCEMENT OFFICERS

Mr. MOSS. Mr. President, ever increasing demands are placed upon today's law enforcement officers. Most of the demands are a result of an increase in crime over the past several years. But, many problems for our policemen result from an entirely unexpected source. It involves action taken by responsible citizens who desire to create a safer society.

One inconvenience for law enforcement agencies occurs, because many businessmen, as well as the general public, in an attempt to discourage burglaries, install defective alarm systems. Law enforcement agencies, with dispatch, answer burglar alarm calls regularly. When a false alarm is set off the time of several policemen is wasted in answering the call. Other police duties are postponed, neglected, or forgotten entirely. Additional law enforcement expense occurs.

We cannot blame the policemen for this problem. Rather, they must be commended for their special dedication in responding to the burglar alarm, whether real or false. And we cannot blame the entire group of citizens who is trying to protect themselves from potential burglars. But something must be done, whenever possible, to prevent the use of defective alarm systems.

The ramifications of this problem are brought out in an article entitled "False Alarms—A Major Problem to Law Enforcement," by Joseph L. Smith, assistant chief of police, Salt Lake City, Utah. It appears in the May 1973, issue of the FBI Law Enforcement Bulletin. I ask unanimous consent that excerpts from this article be printed in the RECORD.

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

FALSE ALARMS—A MAJOR PROBLEM TO LAW ENFORCEMENT

(By Joseph L. Smith)

The continued rise in crime in the United States over many years has brought with it a significant increase in the installation of intrusion alarms in business, industry, and private homes.

Overall, the results of the increased number of alarms have been good. Locations which have increased their protection with alarms have generally experienced significant reductions in loss from criminal attacks. An added incentive for businesses to install alarms has been more favorable insurance rates. Because of the alarms, many more criminals have been apprehended than would otherwise be the case.

However, not all of the consequences of the increased security of alarm systems have been happy ones. A problem which has developed in direct proportion with the alarm installations is the problem of false alarms.

Most companies manufacture, install, and service very reliable systems. However, some seem more concerned with making sales than with the service and reliability of their equipment. There is no doubt that reputable manufacturers are as concerned as the police with the false alarm problem; perhaps even more because their continued existence depends upon the reliable performance of their product. False alarms due to poorly designed equipment or faulty installation are costly to manufacturers because they alienate customers and the police. Customers of alarm companies resent getting out of bed at 3 a.m. and driving to their place of business in response to a false alarm. Law enforcement officers and administrators are reluctant to tie up one or more units at a probable false alarm when their services may be badly needed elsewhere.

What is being done about the problem? Responsible manufacturers are trying to build the most reliable product possible. Knowledgeable installers are doing the best job possible. They are planning each installation carefully, taking all circumstances into account that can possibly be anticipated, and they are maintaining the integrity of the alarms by frequent service checks. Unfortunately, there are many customers who will buy the cheapest product possible to satisfy insurance requirements, and these systems are often inadequate. Neither the customer nor the company in such instances seems to worry much about maintenance. False alarms from poorly designed, maintained, and installed equipment continue to be a major problem.

LAWS AND ORDINANCES

What can law enforcement do about faulty alarm equipment and ineffective intrusion alert systems? It is possible to encourage ordinances which could hold alarm companies responsible for carefully planned, well-maintained installations. For example, if false alarms are repeatedly received from one particular location and the company failed to take corrective action, ordinances could empower the city to send its own technicians to inspect the alarm installation and correct the problem. The alarm company or the business having the installation could then be billed for the service. In addition, a fine could be levied in aggravated cases.

Several departments have asked their city fathers to pass ordinances which would prohibit telephonic alarms from terminating at a police telephone switchboard. There are at least two good reasons why they have requested this action. First, in the event of bad weather, earthquake, or disaster, the false alarms could be numerous enough to tie up most of the police telephone circuits at a time when they would be sorely needed. Second, the police would have no ready access to information identifying persons from the firm maintaining or servicing the alarm system who have the responsibility to assist in checking the premises. Many of these telephonic alarms were sold because the salesman assured the customer that a recorded telephone message would go directly into the police department switchboard.

Another major reason for false alarms is the carelessness of alarm customers and their employees. They may activate an alarm by entering or leaving their building without notifying the alarm company in advance. Naturally, the servicing agency cannot distinguish between an employee and a burglar when they receive the alarm. Here again, laws may be enacted imposing some type of penalty for repeated carelessness or indifference.

It might also be well to consider laws pertaining to the security aspect of new business construction. Building codes which would require specific intrusion detection systems in certain commercial structures could be a major step in assisting law enforcement in the control of many crimes against property.

It is suggested that the police and their legal counsel would do well to meet with and discuss any proposed ordinances with alarm company representatives prior to supporting such action. The input from the industry could be valuable and possibly even make regulation by ordinance unnecessary.

DEPARTMENTAL POLICY

Aside from the passage of laws and ordinances, what else can a law enforcement agency do to insure proper response to intrusion alarms and still provide services which may, at the same time, be needed elsewhere? The best answer to this question is probably the drafting of clear departmental policy. Again, it would be a good idea to meet with the alarm companies, not only for their ideas but to put them on notice that your department is taking a positive action which will affect them.

After the policy has been adopted, all officers of the department must be fully informed so that there will be no question as to exactly what the policy is and how it will be carried out. Next, written copies of the policy should be mailed to the alarm companies so that they, too, will know precisely what to expect from the police department. Finally, it might be a good idea to inform the business community by some means so that they will understand what they can expect from their police department and what is expected of them. Such notification to business people will also reduce the possibility of misleading representations by "fly-by-night" alarm salesmen peddling inferior products.

What should a burglar alarm response policy include? Probably the best way to answer that question is by an actual example. Any agency interested in the following summary of the Salt Lake City Police Department's burglar alarm response policy may then add to the policy or take away from it in accordance with their own needs. It is simple, but it informs police officers and radio dispatchers exactly what is expected of them.

The department responds to all burglar or

intrusion alarms, and if units are not available at the time the alarm is received, they will be dispatched as soon thereafter as possible. If the units which respond to the alarm are unable to locate a point of entry into the premises and there exists no particular reason to believe that a burglar may be inside, they may immediately resume normal patrol.

However, if the dispatcher has been informed by the alarm company or answering service that an alarm service man or other persons responsible for the premises will go to the location of the alarm, one police unit will be assigned to hold at the location for no more than 15 minutes. After the expiration of 15 minutes, the unit may resume patrol if no one has appeared to assist in checking the premises.

In the event someone arrives to check the premises after the assigned unit has resumed patrol, the police dispatcher will send another unit to the scene. Also, if an emergency occurs during the 15 minutes that a unit is holding at the location of an alarm, the police dispatcher is authorized to reassign the unit to respond to the emergency.

With the enactment of ordinances and the adoption of meaningful, practical police policies, the results achieved from well planned and maintained alarm systems should be worthwhile. False alarms can be significantly reduced while more burglary arrests can be experienced by the increased assistance to police efforts.

## ISRAEL'S 25TH BIRTHDAY

Mr. TOWER. Mr. President, freedom loving people around the world are this week celebrating the 25th anniversary of the state of Israel. Along with millions of Americans, Christians and Jews alike, I would like to extend my best wishes to the State of Israel and to its people in recognition of this important event.

When Israel attained recognition as a sovereign member of the international community 25 years ago, many knowledgeable scholars in the field of politics and international relations sincerely believed that its existence would be short-lived. I doubt if anybody felt that it would attain the achievements that it has made in this 25-year span. The success of Israel belongs exclusively to its people. Their courage, perseverance, and general know-how have enabled their country to be a leader in such fields as education, and science and technology. That they have achieved so much while being under the constant threat of war with their neighbors is quite remarkable and something that I have admired for many years.

The United States has been a close friend of Israel during these 25 years and I continue to believe that this support is a required prerequisite to lasting peace in the Middle East. If Israel is left defenseless by its allies, I am convinced that a recurrence of the 6-day war of 1967 will be fought.

At the same time the international community must better recognize that persecution of Jews in the world still exists despite the experience of Hitler's barbarism of 30 years ago. This is particularly so in the Soviet Union where a totalitarian dictatorship continues to maintain an official policy of religious discrimination. The State of Israel offers a new home to these captive people of the Soviet Union and everything should be done to insure that they are given total freedom of emigration.

Israel is a land of hope for millions of people, both within and outside its borders. We all hope that a settlement can soon be realized with its Arab neighbors so that mutual progress can be made in that area of the globe. With this hope, I extend a greeting of Shalom, an expression meaning both "peace" as well as the term used to greet your fellow citizen. Shalom is more than just a word, therefore, it is a feeling of hope and aspiration that is shared by not only Israel and its people but all peace and freedom loving people throughout the world.

## ADMINISTRATION ACTION URGED ON GASOLINE AND FUEL SHORTAGES

Mr. HUMPHREY. Mr. President, it is urgent that the Nixon administration act now to put an emergency gasoline allocation plan into effect. Unless the administration states firm plans to deal with the gasoline and fuel shortages, I will do everything in my power to pass legislation directing that it do so. I am somewhat encouraged by reports from the meeting yesterday at which Deputy Secretary of the Treasury William L. Simon said the administraton is preparing to put such a plan into effect within a week. Today's Washington Post newspaper reported on that meeting, and I ask unanimous consent that it be printed at this point in the RECORD.

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

PLAN READY FOR FUEL ALLOCATION

The Nixon administration is preparing to put an emergency fuel allocation plan into effect within a week. Deputy Secretary of Treasury William L. Simon said yesterday.

Its purpose, he said, is to assure that no section of the country, dealers or critical public services suffer more than others in the expected shortage of gasoline this summer.

Simon disclosed that a plan was nearing completion after hearing complaints from Midwestern senators whose farming constituents say they may be denied enough diesel fuel needed to run their irrigation systems and tractors this spring.

Aides said the plan would probably consist of guidelines issued to refiners and marketers. It would urge them to provide the same percentage of fuel to local dealers that they made avilable last year, the aides said.

Details of the plan are not yet completed, but Simon hopes to have it in effect within one week, the aides said. He expects to present the plan to President Nixon this weekend.

Although the initial guidelines would be voluntary, aides said Simon probably will begin setting up the machinery for a mandatory plan that would require the big oil companies to allocate fuel.

Simon last night said he has not foreclosed the possibility of beginning with a mandatory plan instead of a voluntary one. "It could be easier," he said.

Under an amendment to the law extending the wage-price control authority, the Nixon administration has authority to initiate either a mandatory or voluntary system to assure that all areas of the country get sufficient fuels to meet "vital needs." The administration had opposed that amendment when it was offered in the Senate by Sen. Thomas Eagleton (D-Mo.).

If mandatory controls are called for, however, the government must set forth its guidelines and then hold public hearings, a time-consuming process.

Behind the latest pressures are congressmen and senators representing areas farthest from the major U.S. oil sources—the Midwest and the Northeast.

The farm-state senators, meeting with Simon in Vice President Agnew's office, complained that the farmers need immediate assurance that they can buy the diesel fuel needed to operate the large motor-driven irrigation systems.

Sen. Carl T. Curtis (R-Neb.), according to an aide, told Simon at the meeting: "I feel you have the tools in spite of the shortage to allocate fuel in these farm areas If you don't, I expect to burn you at the stake."

Simon said that inventories of gasoline are 12 per cent below last year's levels. However, he said there will be no need for rationing at the retail level and predicted there will be no "severe country-wide shortage."

The overall purpose, he said, is to "share the shortage" so that no section of the country suffers unduly. "Everybody has to make some sacrifices," he said.

## FUEL ALLOCATION TO FARMERS NECESSARY

Mr. DOMENICI. Mr. President, many of my colleagues and many American citizens are expressing their growing concern over the potential fuel shortage facing this country. I also am concerned. But to date, most of the concern has centered around the problems it would cause in the area of transportation. Service stations are closing for lack of an adequate supply of gasoline. We are being asked to conserve fuel in our private automobiles, and the airline industry is even faced with the possibility of reducing their air speed to conserve jet fuel.

But the fuel shortage may affect even more than our transportation. There is a possibility that it will affect the vital food supply in this country.

I have written to Interior Secretary Rogers Morton and to Agriculture Secretary Earl Butz to express the concern of many New Mexico farmers that the shortage of diesel fuel may hamper them from running their irrigation systems and tractors.

And the problem has become even more acute, because the Secretary of Agriculture has released many acres for planting which previously had been set aside.

In Curry County, N. Mex., for example, 30 percent more acreage, or 55,000 acres, have been released for planting this year. In principle, this is a step most certainly welcomed by farmers in the area.

However, my constituents have advised me that there is a real possibility that Mr. Butz' goal of increasing the food supply to foreign and domestic markets may be frustrated by a scarcity of diesel fuel and natural gas.

Distributors of fuel in Curry County are also on an allotment based upon last year's use. But last year's use did not include a 30-percent crop increase.

Deputy Secretary of the Treasury William L. Simon has pointed out that the administration may be putting an emergency fuel allocation plan into effect within a week. I am aware of this possible action.

But he also has said inventories of

gasoline are 12 percent below last year's levels. The allocations would be designed to give all sections of the country the same percentage of the fuel supply they had last year.

But I would like to point out that this would mean our farmers would be getting even less fuel than they got last year. And last year's use did not even include a 30-percent crop increase.

Without more fuel, how can the farmer till and harvest more acres and how can he run the water pumps to irrigate their land?

My concern, Mr. President, is that the announcement of increased acreage will turn out to be only an expectation if we do not find a solution to the problem of insufficient fuel supplies.

I can think of few higher priorities for use of our fuels than to help provide an adequate supply of farm products for the American and world marketplaces. We must supply the needs of our own country, and if we expect to alleviate our balance-of-payments deficit, we must produce more food than we need for exportation.

I want to stress that I praise Secretary Butz' attempts to increase our food supply by allowing our farmers to grow more crops. And I am equally sure that the American taxpayers, the American housewife, and our international economists will welcome such an increase in production.

But I warn you today, as I have warned the Cabinet officials, that we must do everything in our power to see that the promises made about an increase in the food supply are not broken because of improper management of our fuel resources.

## EMERGENCY GASOLINE AND FUEL ALLOCATION

Mr. HUMPHREY. Mr. President, I wish to draw the attention of the Senate to an editorial which appeared Thursday, May 3, in the St. Paul Pioneer Press. The editorial discusses the vital question we all are debating in Washington this very moment—the urgent need for the Nixon administration to take steps to allocate gasoline and fuel oil supplies. I ask unanimous consent that this editorial be printed in the RECORD.

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

ALLOCATING FUEL SUPPLIES

What can and should the Nixon Administration do about the worsening national shortage of gasoline and fuel oil? Washington officials are debating the question.

Minnesota, Wisconsin and Iowa, one of the regions hit hardest by last winter's scarcity of fuel oil, now are told there isn't enough gasoline available to meet normal summer demands.

The question before Washington officials is whether there should be government intervention in the allocation of petroleum supplies. When Congress this week extended the President's wage and price control authority for another year, it included in the law a new provision permitting supervision of gasoline and oil distribution. The Administration has not said whether it intends to use this authority, but the President's recent energy message made no such suggestion.

The alternative to government action is to let the big national oil companies divide their supplies as they see fit. This is the present situation.

Sen. Hubert Humphrey of Minnesota has proposed that Congress establish a national Emergency Fuel Allocation Board "to assure fair allocation of petroleum products to all parts of the country." Rep. Donald Fraser and others have asked President Nixon to initiate such a program immediately under the authority contained in the economic controls law just passed.

In his letter to Nixon, Fraser said: "The public interest requires that government play a key role in determining how oil is distributed and to whom. This is the only way we can minimize inconveniences and hardships to the consumer. Reliance on the free market will not solve the oil distribution problem."

He added that "energy consumption must be curbed—and through more than voluntary means. We have to start thinking about taxing automobile horsepower, for example, and insisting on strict standards of efficiency for electrical appliances."

Some 150 independent gasoline stations in the Twin Cities area have been forced to close in the past two months. The big-name brand companies are beginning to restrict allocations of gasoline to their own outlets. Major farm cooperatives, important suppliers of tractor fuel and gasoline required for agricultural production, are in trouble.

Interior Secretary Rogers Morton this week called on all Americans to restrict their driving voluntarily. He urged use of buses in the cities to go to and from work, driving 10 miles an hour below speed limits on the highways, limiting the use of auto air conditioners and other "common sense measures."

"If a majority of Americans take energy conservation seriously," said Morton, "we will not have gasoline shortages this summer." Otherwise, he declared, "we will have to consider more serious remedial measures."

The shortages already are a fact of life in Minnesota and the Midwest. Laxity in planning by the government and by the private petroleum industry, plus years of governmental policies which discouraged expansion of supplies, are partly responsible for the present situation.

Voluntary action by individual citizens to cut down gasoline consumption is called for, but governmental intervention may also prove necessary. This will become especially important if developments indicate that the Midwest does not share equitably in the national distribution of supplies by the petroleum industry.

## COMMEMORATION OF THE FOUNDING OF THE STATE OF ISRAEL

Mr. MATHIAS. Mr. President, all of us who have stood before the Wailing Wall in Jerusalem have felt the awe and sense of antiquity inspired by that solemn, holy place. It is literally all that remains of the great temple destroyed by the Romans and it is also one of the last remnants of ancient Israel. It was, therefore, the uniquely appropriate place to commemorate the founding of modern Israel and to celebrate her survival through birth and infancy. A memorial torch was lighted at the Wailing Wall last Sunday on the 25th anniversary of the founding of the State of Israel. There was much joy and many festivities throughout Israel this week at the successful completion of 25 years of toil and perseverance of the creation and security of an independent Jewish state. These years have earned for the people of Israel the luxury of enjoying the fruits of life in a free nation.

I offer my congratulations to the Israeli people on this happy occasion. Americans of many faiths have always felt an indissoluble bond between our country and the State of Israel. We have in many respects a common history, mutual purposes and shared ideals. Both are nations born in war and built by immigrants. Both are dedicated to democratic and humanitarian goals. Both have transformed foreign oppression into national opportunity. In both Israel and the United States, the once homeless built a haven for the hopes of all free men.

The United States has expressed, through economic and military assistance, its firm commitment to Israel's right to exist with secure and defensible borders. The Israeli have made our aid an investment and now this desert outpost has become a valuable part of the world economy.

Israel has met and conquered numerous seemingly insurmountable challenges over the past quarter century. She has channeled her human talent and technical expertise toward solving the problems of absorbing 1½ million immigrants; establishing a modern army increasingly supplied by locally produced defense equipment; transforming an agrarian to an industrial economy; preserving and strengthening its democratic institutions; cultivating arts and sciences; and achieving many other worthy goals. Israel today represents more than a place for homeless Jews to live—it stands for a real contribution to the quality of life, not only for Jews, but for all mankind.

Last week marked the 75th birthday of one of the most inspirational leaders in the history of the state of Israel. From the days of its very inception, Israel has been blessed with the energy and enthusiasm of Golda Meir, now Prime Minister. It has been my pleasure to have met with Mrs. Meir frequently and I would like to take this opportunity to congratulate her on the success of all she has done over the years to make Israel a great and humane nation and a responsible partner in the world community. Her efforts have been an invaluable contribution in the development of the dynamic society that is today's Israel.

## NATIONAL CHRISTMAS TREE

Mr. BAYH. Mr. President, I have recently received word that the national Christmas tree this year will be coming from my own State of Indiana. This certainly elicits a measure of Hoosier pride, and, while it is a bit out of season, gives pause for reflecting on the gentle spirit of Christmas.

When the national Christmas tree is lit each year it reflects a lovely mixture of natural beauty and manmade ornamentation. The tree provides a feeling of joy for Washingtonians and for the thousands of Americans who visit the National Capital each Christmas season. I am indeed pleased that this year's tree,

bringing joy to so many, will be from Indiana.

There is a Hoosier—George T. Bowers—who probably is more understanding of the Christmas spirit than most. He has authored a song and a story entitled "Christopher the Christmas Tree," which carries forward that wonderful spirit in a most thoughtful manner.

The theme of "Christopher the Christmas Tree" revolves around the growth of a once scrawny evergreen, with the name of Christopher, into a huge, full tree ultimately selected to be the national Christmas tree. The morale of this song and story, which have brought smiles to thousands of young children, is the ability of this tree to strive and succeed in the greatest of tree ambitions—to be the national Christmas tree.

In this morale are lessons about the rewards which come from hard work, and the pleasure which comes from giving pleasure to others. It is a reaffirmation of the Christmas spirit. It is, indeed, a lesson for us all.

George Bowers is a creative, sensitive individual whose wonderful message is conveyed gently and effectively in his story of "Christopher the Christmas Tree." This year, when that big, beautiful *Hoosier* tree takes on the glory of the national Christmas tree, it will be for George Bowers—and the many youngsters who have enjoyed his song and story—"Christopher the Christmas Tree" spreading happiness for all.

## TOWARD CLEANER WATERS

Mr. PACKWOOD. Mr. President, the last Congress saw tremendous accomplishments where our environment is concerned, not the least of which was the enactment of the Federal Water Pollution Control Act Amendments of 1972. Coming from a State which is far ahead in its efforts to clean up its waterways, I have had a continuing strong interest in seeing the Federal legislation work and in seeing my own State of Oregon stay out ahead, an example to what can be done if only the determination is there. I think the Assistant Regional Administrator for Management, Region X of the Environmental Protection Agency, has made a concise statement as to the roles each of us must play in insuring that the water pollution control bill will have the desired effect and will be a vehicle to which we as Senators may look back and point with pride as work well done and a true beginning in a long list of efforts toward ultimate successful cleanup of all our Nation's waterways. I commend to my colleagues Mr. Hurlon C. Ray's speech before the Institute of Environmental Sciences in Anaheim, Calif.

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

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

WATER POLLUTION: THE FEDERAL ROLE

(By Hurlon C. Ray)

There is probably not a person in this room who does not have personal knowledge of a stream, or a lake, or a bay that has suffered within his lifetime from the effects of man's pollution—perhaps, a river that was clean and beautiful, but now is polluted; or a stream where he caught fish as a kid, but now where it isn't worth wetting a line; or a lake or a bay now degraded by silt or algae, or other effects of misuse of our lands and waters.

I would guess that you have perhaps felt some sense of outrage—or at least have muttered to yourself, "Why does it have to be this way?"

This circumstance, as much as anything else—the loss of waters to pollution in our lifetime—has brought about the focus of attention to water pollution. So, it is with water pollution that we have seen the earliest concern and the earliest and most comprehensive legislation by the U.S. Congress.

Even so, this concern has come to the American consciousness almost too late. We are in the midst of an environmental crisis. This crisis does not concern just water pollution, but also air pollution, solid wastes, pesticides' use, and noise. And we are just becoming aware of the more fundamental, underlying environmental questions of urban land uses, the runaway energy requirements, forestry practices, agricultural problems and the like. In short, we now face the environmental consequences of our inattention to, if not disregard of the real-world meaning of our unending quest of past years for burgeoning economic growth spurred by our remarkable technological advances.

Now is the time that we must turn our technological know-how toward solution of our environmental problems. Anyone who reads the day's news knows we are beginning to do just that. But more needs to be done and done more expeditiously.

More important, we must dedicate a sizable chunk of our national wealth to paying the bills that applying of our technological skills to pollution control will require, if we are to right the environmental wrongs we have inflicted on ourselves in past decades.

To do this, we must build in the minds of the American public what some call the environmental ethic. In Oregon, they have a term that is more direct, more meaningful to the ordinary guy, than the high-flown term environmental ethic. They talk about liveability. The slogan is "Keep Oregon Liveable". Governor Tom McCall has a citizen advisory group including environmental activists which he calls the Committee for a Liveable Oregon. And Governor McCall means it when he says, as he has on national television, "Come and visit us often, but don't stay."

The environment was a major campaign issue when he was elected to his first term in 1966. And under his administration, Oregon stands right now as the only state in the nation that has succeeded in cleaning up a major river—the Nation's 12th largest river, the Willamette River.

But, let's turn to water pollution more specifically.

The earliest concern on water pollution centered on the public health hazards of people using water containing human sewage. The disease carried in and by waters contaminated by sewage from cities was the major concern. For some time, water pollution was a problem handled by the M.D.'s as State, County, and local health authorities.

The principle thrust of the first Federal law was the provision of Federal funds as grants to municipalities for construction of sewage treatment plants. It was passed in 1956, a short 17 years ago.

In the years that followed, the Federal pollution agencies became involved in study after study to identify the problems of water pollution, in research and technical assistance to help the States and local regulatory agencies do their jobs better, and in the supply of gradually increasing Federal grants for many purposes. The Federal role was to cooperate with and to provide assistance to state and local governments responsible for water pollution control. Significant progress was recorded, but not sufficient to catch up, let alone begin to keep up, with the growing magnitude of water pollution in our nation's waters.

More important, little progress was made in getting at the big sources of water pollution—the industries, which did the only logical thing. They dumped their wastes into the nearest waterways with little or no treatment as long as they could. Argument raged on whether those wastes were really polluting the water. The wastes were carried away, were diluted and generally were out of sight and out of mind. Studies were made to document the pollution, and counter studies were made to refute those findings. The persistent question was always the requirement that it was incumbent upon the regulatory agency to prove beyond doubt that this or that source of waste was in fact and by itself polluting the river, or lake, or bay. And the situation worsened as our economy and population continued to grow in the post World War II years.

The U.S. Congress took note of this and in 1965 and 1966 passed historic legislation—the Water Quality Act of 1965 and the Clean Waters Restoration Act of 1966. In the large view, these acts did several things. First, they recognized that water pollution was a national problem and that national goals must be set to clean up our polluted waters and to keep them clean. Second, they said that the responsibility for cleaning up our waters must continue to rest with the State and local governments. But the laws went one step farther. They said that for all interstate waters we must set water quality standards. The standards were to involve two aspects. One, water quality criteria were to be established for parameters to quantify, insofar as possible, when water was polluted and when it was not. The objective was to lay to rest the arguments as to when water was polluted. And two, the standards were to include a plan of implementation to be embodied in enforceable state laws. The implementation plans were to cover a five-year period, 1967–1972, and to identify point sources and the degree of treatment to be accorded those wastes so that water quality criteria would not be violated after 1972. All this only for the interstate waters, although the states were urged to set similar standards for the intrastate waters.

The Congress said that the States should be given the opportunity to set these water quality standards for the interstate waters and submit those standards to the Federal government for approval. Thus, they would be both State and Federal standards. All States undertook to develop the standards and virtually all were fully approved by the Federal government.

The five-year water pollution clean up program was launched in 1967. When it came to a close in 1972, it was apparent that much had been done in abatement and control of water pollution, but that we had fallen totally short of accomplishing our National goal.

In this five-year period, many things happened. The astronauts as they flew through space took note of the polluted planet earth—and documented it with photographs. And the term ecology came into vogue, although not a new concept at all. Youth became disturbed at environmental degradation that they saw all around them—and us. Earth day was launched, and environmental awareness came to all of us, young and old. The newspapers and TV found that environmental problems were newsworthy—that people really cared about the liveability of their neighborhoods, their communities, their nation.

In 1969, the National Environmental Policy Act was passed. It required the Fed-

eral establishment to look at its activities in terms of the real-world environmental consequences of Federal programs, such as new dams, freeways, and the entire wide array of Federal activities wherein significant adverse environmental impacts resulted. Many states passed similar laws, and the hard look at environmental impacts of what we do seems to be well along in the process of becoming a way of life.

The U.S. Congress, taking cognizance of the public's growing environmental concern, took a hard look at water pollution and how the five-year plan was working out, even before it came to an end. The fact that cleanup of the nation's waterways was at best a faltering effort, lead to enactment of the Federal Water Pollution Control Act Amendments of 1972—a comprehensive 98-page entirely new law replacing and expanding all previous legislation.

This new water bill is patterned after the Clean Air Act of 1970, a comprehensive law to clean up the Nation's air. For anyone who lives in the Los Angeles area, I do not need to observe that this law is touching everyone's lives. And 1972 saw the passage of three major pieces of major Federal environmental legislation in addition to the new water bill, as we called the 1972 Amendments to the Federal Water Pollution Control Act.

The first Federal law on noise control was enacted.

The first legislation specific to ocean dumping of wastes was passed, and in itself is a step toward dealing as a Nation with the international implications of water pollution in our vast sea areas.

And the first updating in 25 years of our Federal pesticide control law occurred.

It is not possible to summarize the new water bill for you today, but it is important to outline its major intent. It launches programs we are going to live with for some time. Unlike the broad provisions of previous Federal laws, it lays out in recipe-book fashion the steps required to meaningful water pollution control and abatement. It seeks not just some measure of improvement, but a turning around from polluted waterways to wholesale cleanup. It provides a system of procedures in considerable detail which must be carried out if we are to get that job done. It sets forth programs that are demanding, if not staggering, in proportion and which will impinge on every level of government and affect our way of life in the private sector of business and industry and individual responsibility. It will require the fullest dedication of our National resources. And it will offer unparalleled technological challenges and opportunities to the scientific and industrial community.

The new water bill, like previous legislation, places responsibility squarely on the shoulders of State and local governments for prevention, reduction and elimination of water pollution. But under the water bill, the Federal Government, through the Environmental Protection Agency, is empowered and directed to take action if the States do not, or cannot, fulfill their obligations under the law. But the Federal role is intended to rest in the setting of guidelines and standards as legal requirements, technical assistance through meaningful research findings, Federal funding in a variety of ways authorized by the law, and monitoring of State and local programs to assure that the requirements of the law are being carried out expeditiously and effectively.

The water bill extends all water pollution control programs to all U.S. waters, not just interstate waters, as under previous legislation. By this alone, the water pollution control effort becomes truly a National effort by eliminating the prospect of 50 States doing their thing 50 different ways for the intrastate waterways, in each State.

Another major change concerns the standards. Whereas previous Federal law called for treatment to meet instream water quality standards, the new water bill requires levels of treatment in terms of what comes out of the waste discharge pipes after treatment, as related to what our technology can provide as "best practicable" or "best available" treatment. That is, the measure is to be the "best" our technology can produce as results, not just enough to meet minimum standards in our natural waters after the wastes are received, mixed, carried away, and subjected to natural, instream processes of decomposition.

I must hasten to point out, however, that water quality standards are still part of the strategy in water pollution control. Now, all States are required to establish water quality standards for their intrastate waters and submit those standards to EPA for approval, so that they will be both Federal and State standards. More important to recognize is the fact that water quality standards are the basis for determining when controls more stringent than "best practicable" or "best available" may be necessary.

The water bill identifies at the outset the National goals to which the law is directed. The first is an achievable goal—to obtain by July 1, 1983, water across the Nation that is clean enough for swimming and other recreational uses, and clean enough for the protection and propagation of fish, shellfish and wildlife. The second, and later, goal is one which elicited considerable comment; namely, by 1985 to have no discharges of pollutants into the Nation's waters. I feel sure we would have to recognize the 1985 "no-discharge" goal as a laudable one, yet one that would most likely be beyond anything we could rightfully expect to accomplish as a practical matter, at least in that time frame. More significant to our discussion today are the deadlines set for dates prior to 1983.

All municipalities are to have in operation by July 1, 1977 treatment facilities which provide a minimum of secondary treatment. However, additional more stringent effluent treatment may be required by that date if necessary to meet water quality standards. The water bill does provide increased incentive to municipalities to meet this 1977 deadline by raising the Federal constructions grants to 75 percent and by authorizing greatly increased total funds for those grants. As you may recall, the increase in authorized funds, as spelled out by the Congress in the water bill, has not come about in total. The Administration has limited such expenditures for a number of reasons considered compelling at the moment. In any event, the level of funding now available far exceeds that which has been available in past years for assisting in construction of municipal sewage treatment works.

All industries discharging pollutants into the Nation's waters must install the "best practicable" water treatment control technology by July 1, 1977, and the "best available" technology by July 1, 1983. EPA is charged with developing guidelines for "best practicable" and "best available" technologies for the various classes or categories of industries by October of this year. As you must recognize, these terms are not specific, until defined. It is EPA's responsibility to do so.

At this time I can indicate only generally what the terms mean. "Best practicable" technology refers to that technology which is in fairly common use in a class or category of industry. "Best available" technology will refer to the performance that can be achieved by the leader in that industry group. And for each of these, the costs and economic factors, the non-water quality related environmental impacts, the energy requirements, and other such factors must be taken into consideration when defining these terms for a specific industrial category.

All this sounds very good. But the crux of the matter is how do you assure that all this will really happen. The answer is found in the water bill. It is a nationwide system of waste discharge permits embodying State-by-State the mechanisms set forth and required by EPA in guidelines for a National Pollutant Discharge Elimination System. The intent of the water bill is that each State shall develop a permit system meeting the EPA requirements and that EPA shall approve issuance of such permits by the States. In any event, no discharge of any pollutant from any point source will be allowed without a permit having been issued under this national permit system. If a State does not qualify to take over the permitting system, EPA will handle the permit program until such time as the State can qualify.

Finally, no system for clean up will work unless its provisions are enforceable by law. The water bill provides much new and more direct power to EPA to assure that pollution point sources will provide the degree of treatment necessary to meet the requirements spelled out in the waste discharge permits. Again, the objective is to turn the program over to the States when the States demonstrate that they have the authority under Sate law to carry out the enforcement called for under the water bill.

There is much more involved in the water pollution control programs called for under the new water bill. I have only outlined the major aspects of this comprehensive Federal legislation. What we must remember is that laws alone never accomplish a good end, no matter how worthy. It is people and our government and private institutions—our society—that make things happen.

We will clean up the Nation's waters in ten years, or by 1983, only if we collectively turn to and do the job. I am convinced that the average citizen in our country will support the costs involved, if only he is fully informed of the economic and environmental losses that are inevitable if we neglect getting along with the job.

(The Federal, State, and local governments must join in carrying out their responsibilities. Their collective role as environmental policemen is not an easy life. But enforcement, or its threat, is fundamental to water pollution control.

And finally, nothing will really be accomplished without industry and business leading the way. The absolutely necessary tools that can be supplied only by technology must come, through applied research provided by a motivated business and industrial community. I would hope that this Institute of Environmental Sciences, through meetings such as this, can be one of the catalysts stimulating the development and refinement of the technology we must have if we are to cope with water pollution and other environmental problems. Without the technology, all the laws on the books cannot clean up our environment.

## THE URGENCY OF THE TRANS-ALASKA PIPELINE

Mr. GRAVEL. Mr. President, on May 2, 1973, the Honorable William A. Egan, Governor of my State of Alaska, testified before the Senate Interior and Insular Affairs Committee, on the urgency of getting construction underway for the trans-Alaska pipeline.

I call your particular attention to his remarks concerning the time element on construction, and on comparative construction and engineering costs of the

trans-Alaska pipeline versus the proposed trans-Canada pipeline. There should be no doubt left in any reasonable citizen's mind that the trans-Alaska pipeline is the only feasible and the more economical route of the two. The Governor also details the needs for revenue which the line would generate to help the State of Alaska meet its increasing obligations and to give all Alaskans a decent standard of living. Even more important, however, are the Nation's needs for North Slope oil to help alleviate the critical energy shortage and to ease our balance-of-payments problem.

I ask unanimous consent to have Governor Egan's statement inserted in the RECORD.

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

TESTIMONY OF THE HONORABLE WILLIAM A. EGAN, GOVERNOR OF ALASKA

Mr. Chairman. This morning you have two bills before you each relating to the construction of a crude oil pipeline in my state. With the concurrence of the chairman, I will deliver only a short summary of my views at this time, offering extended remarks for the record within the time permitted. S. 979 introduced by Alaska's Senators Ted Stevens and Mike Gravel would clear the technical and procedural obstacles which have blocked the construction of the Trans-Alaska Pipeline now for more than four years. Alternative measures, S. 993 and S. 1565 would authorize commencement of a new study on the feasibility of a Trans-Canadian Pipeline route to the American mid-west and give a right of way, across those portions of Alaska which are federally owned, from Prudhoe Bay to the Canadian border in keeping with the conclusion that such a route is feasible.

The assumptions implicit in the later proposals are at odds with economic reality. The aspirations which underlie such legislation, while understandable, would not be advanced but rather meet frustration through adoption of the legislation. No economic advantage will accrue to the American mid-west by blocking or delaying the Trans-Alaska Pipeline. All regions of America will be losers.

This morning, Mr. Chairman, I would like to address my remarks to some of the major errors and fallacies in the argument for a Canadian alternative, but before doing so I will comment briefly on S. 970. In my heart, with the overwhelming number of Alaskans who have now suffered through years of costly procedural delay, I support the measure introduced by our Alaskan delegation. Yet my judgment tells me that, at least for the time being, a measure limited to the objective of providing for a right-of-way width adequate to modern pipeline construction is most likely to secure for Alaska its long sought goal and obtain for the Nation early relief from its burgeoning energy shortages. Legislation which could in any way be viewed as circumventing the procedural requirements of the National Environmental Policy Act, however justifiable in the eyes of those intimately familiar with the project's history, would raise sources of opposition which in the present climate might considerably prolong consideration of the legislation.

Time itself is a compelling reason for proceeding with the TAPS project. The TAPS proposal, despite delays, is well along towards completion. Over $387 million has already been invested in the project including over $75 million in environmental studies. Detailed design and redesign work filling 29 volumes has been completed and filed as a project description with the Department of Interior. Route selection, surveying and testing has been readied for the construction phase. The procurement of pipe and equipment has been accomplished. Time consuming negotiations and agreements prerequisite to the complex financial and management arrangements, necessary to support the project, have been kept apace of circumstances.

Months of study were invested in the TAPS project prior to the filing of an application. Months of subsequent review by governmental agencies have been completed. The laborious process of preparing a final environmental statement has been finished. These are all steps which would have to be duplicated, with the same potential for delay, if a Trans-Canadian line were to be undertaken.

Assuming the necessary commercial organizations would step forward to sponsor the project, delays which have already beset the TAPS project are more than matched by delays which await a Canadian proposal. Additional procedural problems arising from the more complex political and economic environment of the Canadian route suggest far greater lead time on construction.

The proposed Trans-Canadian line is, in reality three lines, each with its own problems of organization and financing: Each with its own sources of potential political and legal opposition. An American organization requiring participation along the lines of the existing TAPS group would be needed for the segment of the line in Alaska. The Canadian section would be separately organized to reflect the political and economic needs and problems of the Canadian people as well as the laws relating to foreign investment in that country. Yet further arrangements would be needed to reflect the participation of established ownership regimes in the right of way from the Canadian border south.

Of these segments, the Canadian route is the most complex. There is no reason to suppose that once the TAPS route was dead, Canadian environmental groups would embrace a Trans-Canadian line.

The construction of a line would engage troublesome issues of Canadian federalism and touch the sensitive nerve of Canadian political and economic nationalism. For the past two years or more Canadian and American authorities have been attempting to negotiate an agreement which would govern the conduct of the parties in the event that an international crisis cut off sources of imported oil upon which the two countries now depend. Despite two years of effort, these discussions have failed to produce an agreement. Such an agreement would be but one prerequisite to an agreement to construct a Trans-Canadian Pipeline.

Alaskan aboriginal land claims cast a cloud over the TAPS project for several years until the complex Alaska Native Claims Settlement Act was finally approved by the President on December 18, 1971. The form of a Canadian aboriginal claims settlement is yet to be proposed. Over 400,000 acres on the Mackenzie River Valley route have been frozen by judicial decision in the Yellowknife, Northwest Territories court pending an initial determination of the merits of the claim at the trial court level expected on May 15.

After all levels of administrative review have been exhausted, a pipeline proposal is referred to the Canadian cabinet for consideration at the political level. Under Canada's parliamentary form of government, the party in power must depend for support on a minority party which has taken a sceptical view of the merits of Arctic pipeline development. Future political attitudes in the parliament and the government are necessarily problematic.

The time consuming complexity of the project is suggested by the comment of William P. Wilder, Chairman of the Board of Canadian Arctic Gas Ltd. Mr. Wilder, whose company has been planning a Trans-Canadian gas line for many months, made the following forecast earlier this month: "By the earliest that we can expect approvals—possibly late 1974 or early 75, Arctic Gas will have invested more than seven years and $50 million. Delivery of materials and construction will take another three or four years." In contrast to a 10–11 year minimum time frame necessary to a Canadian line, the completion of TAPS is no more than four years away. With the adoption of legislation, we can expect prompt action in the U.S. District Court on the one remaining issue, already reviewed once, the sufficiency of the environmental impact statement. Appelate review should be completed within a year. Up to three years are required for construction. Years of production would be lost in switching over from a largely completed Trans-Alaskan program to a Trans-Canadian program which has yet to jell into a specific concept. Those lost years are an unacceptable sacrifice considering the growing urgency of the nation's energy crisis.

But setting aside for a moment the critical impact of the passage of time, the Trans-Canadian route is still economically unfeasible. The economic feasibility of a Trans-Canadian line depends on a finding that the cost of transporting oil overland from Prudhoe Bay to Chicago does not exceed the cost of transporting that oil via the TAPS route to the West Coast by more than the refinery price differential between the West Coast and Chicago.

Because of our Nation's growing dependence on imported oil, Middle Eastern Crude will become pivotal to oil pricing in our country, and it will lay down in the United States at the Gulf Coast and at the West Coast for approximately the same cost.

That means that the refinery price of crude in the Midwest will be higher than that on the west coast to the extent of the cost of transporting that oil from the Gulf States into District 2, Walter J. Levy Associates of New York has estimated that the Midwest area covered by that district will have a net petroleum deficit by 1980 of 5,175,000 barrels per day. We estimate economies of scale involved in shipping oil in such magnitude into the Great Lake area will reduce the cost of transportation from the Gulf of Mexico to 20 to 25 cents a barrel. In order to be economically feasible with this price differential, a trans-Canadian line would have to deliver oil to the Midwest at no more than 20 to 25 cents barrel above what it would cost the trans-Alaska system to deliver the same oil to the west coast.

In examining transportation costs, the state has treated the tanker segment of the trans-Alaska line from Valdez to the west coast and the segment of a trans-Canadian line between Edmonton and Chicago as cost equipment though there is some evidence that the Edmonton to Chicago line will be substantially more costly. Giving the land route the benefit of the doubt and treating the two as comparable, any evaluation of the economic advantage of a route to the Midwest turns on one question: whether the cost of shipping oil over a pipeline running from the North Slope to Edmonton exceeds the cost of shipping over a pipeline from the North Slope to Valdez by no more than 20 to 25 cents per barrel. Calculating this expense difference as a percent of value of a pipeline, we conclude that construction of a trans-Canadian route can be no more than 20 to 25 percent above the cost of a trans-Alaska line without losing its cost feasibility.

The sponsors of TAPS have said their line will cost "more than" $3 billion. The state estimate, prepared a year ago by Tibbetts, Abbott, McCarthy and Stratton of Houston, Texas was calculated at $3.5 billion. Applying the percentage increase, an economically feasible Trans-Canadian line must be kept within a cost ceiling of $4.2 billion to $4.375 billion.

One study has come to my attention which has claimed that the Prudhoe Bay-Edmonton line could be constructed within this amount. The $3.4 billion installation costs in the study entitled "Arctic Oil Pipeline Feasibility Study 1972" was prepared in 1970–71 by a group of pipeline and general construction companies having an interest in contracting with the industry for the construction of a Trans-Canadian line. Their biases in the matter should be self-evident.

How could a cost study for a line from Prudhoe Bay to Edmonton show a lower construction cost than an identical capacity line from Prudhoe Bay to Valdez in the face of the most obvious comparisons? The Alaska line crosses 355 miles of continuous permafrost and 375 miles of discontinuous permafrost, The Canadian equivalent, as reported in the Mackenzie River study, is 482 miles and 918 miles, for a total of 1,400 miles of Canadian route permafrost compared with only 730 miles on the TAPS route. The Canadian route would require 22 pumping stations compared with only 12 on the TAPS route.

The basic difference which allows a cheaper cost estimate in the Mackenzie River study is the absence of environmental engineering. The Mackenzie River study ignores the environmental stipulations laid down by the Secretary of Interior for the TAPS line.

No special environmental measures are provided for most of the 77 river crossings and 326 stream crossings necessary to the lines construction. This was a major factor in the TAPS cost estimate.

Despite almost double the amount of permafrost to be traversed by a Canadian line, the Mackenzie River study allows no greater mileage of above ground construction than the TAPS design. This cost saving is achieved by allowing a full three feet of differential settlement instead of the more cautious one foot settlement factor allowed by the Interior Department stipulations. Above ground construction is 60–75 percent more costly than the buried pipe technique.

No permanent access road such as required by Interior Department stipulations for year round pipeline maintenance and environmental and emergency access surveillance is provided in the Canadian cost estimates. Construction costs assume only a winter ice road, though inconsistent with the construction schedule assumed in the Mackenzie River study as well.

To meet environmental safety standards, a year round access road must be built and financed. By way of cost comparison, the less than 400 miles of the TAPS route, not already paralleled by highway, costs $250–300 million.

Only a two foot gravel construction pad is provided for in the Mackenzie River study while the TAPS line specifications calls for five feet under identical circumstances. The timber pilings used for above ground construction in the Mackenzie River study allow considerably shorter ground penetration with consequent savings in cost of acquisition and transporting and loss of environmental reliability. Critical among the major gimmicks reducing estimated cost, the Mackenzie River study includes a factor of 3 percent for annual cost escalations.

This figure is totally unrealistic, Tibbets, Abbot, McCarthy and Stratton, who have given an independent review of the Mackenzie River study for the State, propose that 18% for the first year and 7% for each subsequent year is more in keeping with sound practice and construction realities. The Mackenzie River study also unreasonably assumes that the construction time needed for the 1,700 miles of Trans-Canadian line will be no more than the 790 TAPS line.

The study assumes that procurement and most contracts will be awarded even before government approvals are obtained, a most unlikely eventuality considering the history of TAPS. No allowance is given for time lost through litigation. In short, the study is self-seeing and makes no attempt to relate its calculations to the construction estimates and experience of obviously comparable projects. It is a study undertaken in a factual vacuum. Considering that on its own admission, each $50 million of underestimated costs is the equivalent of 2c per barrel in the tariff, the assumed margin at benefit is swiftly erased. The additional expense associated with the road alone is more than enough to make the Trans-Canadian line cost-inefficient.

In view of the total lack of practical realism in the Mackenzie River study, it makes more sense to develop cost figures from one of the two pipeline projects which have moved beyond the purely theoretical stage.

The Standard Oil Company of Ohio has developed a study for the Prudhoe to Edmonton segment based on the Trans-Alaska Pipeline cost experience but, of course, greatly reducing the per mile costs south of the permafrost zone. The capital cost projected in this study filed on April 19 with the Public Lands Subcommittee of the House Interior and Insular Affairs Committee is conservatively set at 5.9 billion dollars.

The other pipeline which has moved to the advanced planning stage is the proposal for a Trans-Canadian gas line. Gas Arctic, Ltd. has told the Canadian Government that they estimate cost of $5.2 billion between Prudhoe and the Manitoba-Minnesota border. Having in mind the fact that a gas line can be almost all buried and that an oil line has hydraulic and weight characteristics that impose engineering demands well beyond those suggested by a gas line, an estimated cost of crude oil line based on 25 percent over developed costs of a gas line, the accepted rule of the thumb, also suggests a crude oil pipeline cost from Prudhoe to Edmonton in the 6–7 billion dollar bracket.

As calculations submitted for the record show, the West Coast demand for crude will be more than sufficient to absorb Prudhoe Bay production. Previous figures submitted by us as prepared by Walter Levy Associates, show a Region V deficit of 2.4 million barrels per day in 1980 rising to 3.4 million barrels per day in 1985. This figure has been verified by us through comparison with a current study by the Resources Agency of the State of California showing a 2.5 million barrel a day deficit for that state alone by 1985.

Much has been made of the possibility that North Slope oil would move to Japan. This simply does not make economic sense. The demand is now demonstrably there in District V. In fact, additional imports will be needed. So long as Mid-East oil makes the world price at crude, it is far more profitable to ship Alaskan oil to the domestic market. At the same time, demand in the Midwest will be more than double Prudhoe Bay production. Of course the distribution of American shortages will have no influence on regional prices so long as no import restraints are imposed on a regional basis, a highly-improbable policy. The world price will stay the same. Even if Prudhoe Bay production were brought to Chicago, it would not greatly affect the dominant position of imported oil in making the American market price. Actually, the Trans-Alaska Pipeline system is likely to have a more favorable effect on midwestern and eastern consumer prices than a Trans-Canadian route. The price of foreign oil is fixed, not by cost of production, but by negotiations with producing nations. The American bargaining strength fixes the price. That strength is influenced by the extent of American production and by the strength of the dollar which in turn depends upon the American balance of payments position. The TAPS line is a better route on all counts. The effect of earlier completion date on balance of payments has been noted by Federal Government witnesses. Since its throughput is all American production, not mixed with Canadian, it will have a more favorable impact on balance of payments than a Canadian line as will the fact that the route will be all U.S. constructed, including the tanker portion of the route and be supported by all American investment and all American labor.

In case of national emergency, the earlier delivery and greater flexibility of the delivery system makes TAPS the superior route. Tanker transportation makes delivery to East Coast, Gulf or West Coast possible, depending upon national emergency needs.

One of the tragic features of delay on the crude oil pipeline has been the delay factor on the development of other fuel supplies for the Midwest. Consideration of the proposal for a gas line from Alaska to the Midwest, by reasons of the need for conservation of the oil resource, must await completion of the crude oil line. Delay on completion of the TAPS line has meant delay on consideration of a gas line bringing clean fuel supplies to the Midwest and accordingly the TAPS delay has exerted an upward pressure on midwestern energy costs. Measures such as S. 1565, if adopted, would deepen the natural gas shortage in the Midwest and raise consumer prices in the area as the prospect of yet further delay through the imposition of additional procedures are reflected in the market place.

Mr. Chairman, you have heard from me before the price this delay has exacted on the State of Alaska. I believe the facts show that the Nation and its midwestern heartland have also been losers in the delay on this project.

There is only one way to transport Alaska's North Slope oil to market that makes economic sense, and that is via the Trans-Alaska Pipeline. I urge this committee's favorable action on legislation that will allow construction of the Trans-Alaska Pipeline to get under way promptly.

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## DANGERS OF POLITICAL POWER

Mr. MATHIAS. Mr. President, last week the distinguished senior Senator from Oregon (Mr. HATFIELD) delivered an address on the moral and spiritual dimensions of the political crisis facing our Nation as a result of the Watergate revelations. Senator HATFIELD spoke forthrightly about the dangers of political power, when misused to serve only the selfish interests of those in authority. These remarks were given at the annual Chicago mayor's prayer breakfast, and the Senator specifically related his personal religious convictions to his evaluation of this political crisis.

The Senator said:

When power becomes the end, in and of itself, power always will corrupt. Any means that sustain power become justifiable. So in the end, we can transgress upon the law, whether man's or God's, because we are accountable only to ourselves, and our ability to wield power.

Because of the timeliness of these remarks, I ask unanimous consent that the text of his address be printed in the RECORD.

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

ADDRESS BY SENATOR MARK O. HATFIELD

We have been living through days that try the soul of the nation and test the resiliency of our Republic. We have all been troubled by revelations growing out of the Watergate Affair.

All of us who hold positions of leadership, whether in the political, the economic or the religious spheres of life, must think through the meaning of the tragic affairs that have afflicted the highest leadership of our nation. However, we would always rather hide our wounds than heal them.

It is always more comfortable to believe in the symbols of righteousness than to acknowledge the reality of evil.

In our national political life, this is especially true.

And we have become adroit at manipulating religious impulses in our land to sanctify our national political life. That is the temptation of our "civil religion."

At any event such as this prayer breakfast, where we come to honor God and our religious heritage, we run the risk of misplaced allegiance, if not idolatry, by failing to distinguish between the god of an American civil religion and the God who reveals Himself in the Scriptures and in Jesus Christ.

We want to believe that our nation, and its leaders, are right, just and pure. We want to put our country beyond the reach of God's judgement. Why? Because everything is so much *simpler* then. We want to believe, in the words printed on the back of our Great Seal, that "God hath ordained our undertakings," and not believe that God also judges them.

This impulse is born out of our own lives.

We want to believe we merit God's blessing. But how hard it is to admit that we stand in need of God's forgiveness.

We would rather celebrate Easter than Good Friday. But without Good Friday, there can be no Easter.

So today, I have no intention of uttering a few platitudes about how our nation is one nation under God, and therefore, we as leaders must go home and say a prayer that God will ordain and bless the plans we have already made.

We must look to biblical religion—not civil religion—for the wisdom to guide our lives, and the life of the nation. Then we discover that our prayers must begin with prayers of repentance.

We must start talking about sin again. Sin in our personal lives, and sin in the corporate life of our country.

I know that's an old fashioned term that many people think is irrelevant to this modern age.

But if we really reflect upon the crisis that afflicts us at the national level, and the dilemmas in our own personal lives, then we come face to face with the unavoidable reality of sin.

In the words of St. John: "If we refuse to admit that we are sinners, then we live in a world of illusion and truth becomes a stranger to us." (I John 1:8)

Any of us in positions of leadership find it terribly difficult to deal with the whole concept of sin. We may be able to handle this in our personal lives well enough. We have some idea about what is right and wrong in our personal treatment of others.

But when we enter our public or professional lives, we tend to conveniently leave our thoughts about sin at home or in the church. For a leader, this is all the more true.

When we are given a position of leadership, it becomes natural, almost second nature, to avoid admitting that we may be wrong.

Confession becomes equated with weakness. The urge to self-vindication becomes enormous, almost over-powering. A politician faces this temptation in a very special way, for somehow, it has become a political maxim never to admit that you are wrong. I can attest to this from my personal experience in political life.

Now that may be wise politics. But it's terrible Christianity. In fact, it's the very opposite of biblical faith.

Herein lies the vulnerability of leadership. For, the more one gains power, whether in business, economics, government, or religion, the greater the temptation to believe that he stands beyond the scope of transcendent judgment. This holds true for political power at all levels.

We see this especially clearly in the office of the Presidency. And every man who has held that office has known the unbelievable temptation of identifying the power of that office with self-righteousness.

When power becomes the end, in and of itself, power always will corrupt.

Any means that sustain power become justifiable.

So in the end, we can transgress upon the law, whether man's or God's, because we are accountable only to ourselves, and our ability to wield power. The roots of this temptation, however, lie not only within the hearts of those who aspire to power and vainglory, but within the attitudes in each of us here today, in our worship of political power.

There is an idolatry of the Presidency; we, as Americans, bow to the powers and prestige associated with that office in a way that can be ungodly. This makes the temptations and burdens that fall on the shoulders of any mortal who occupies that office to be almost inevitably unbearable, and corrupting.

That is why any President deserves our compassion, and needs our fervent prayers. For in certain ways he is victimized by our idolatrous expectations. He suffers burdens that no man should be expected to bear—demands of righteousness, wisdom and virtue worthy of an office of our adoration.

When this aura is perpetuated, and turned to for strength and support, the results become tragic.

There is often a cultism that springs up around personalities of power. Perspective becomes lost, and reality is distorted, as the ego is constantly massaged. The plaudits, the honor, and the unswerving allegiance can create a moral vacuum. So bribes become referred to as inappropriate gifts. Crime is reduced to misguided zeal. Lies become misspoken words.

But the fault lies with us all.

Why do we want so desperately to believe in man-centered power?

Why do we want to place such a total and uncritical faith in our institutions?

Why is it that each one of us wants to believe that God blesses America more than He blesses any other land?

I believe it is because we have let the wellsprings of deep spiritual faith in our lives run dry.

Man will always have a god. In Communist countries, where the death of God is made a tenet of government belief, the leaders and their dogma are deified so they can be worshipped.

Man has inherent instinct to worship; if God is not the source of his ultimate allegiance, he will then create his own gods. He will worship other people, or his country, or institutions, or money, or power, or fame—and all of these are different ways of worshipping himself.

As a people, we lack the firm foundations of a deep biblical faith in God; we have allowed our spiritual resources to be mocked, explained away, ignored, forgotten or reduced to mere tradition. So we have transferred our allegiance to other gods; to materialism; to nationalism; to hedonism; to all the modern forms of idolatry that make claims on our fundamental allegiance.

If we are to forsake these gods, and also reject the platitudes of civil religion, and turn to biblical faith, what do we find? We discover that our actions, and all our lives stand under God's judgment and mercy.

We are accountable to Him—accountable for the motives in our hearts, and accountable for the conditions in our land.

So our prayers must begin with repentance; individual repentance and corporate repentance:

"If my people . . . shall humble themselves and pray, and seek my face, and turn from their wicked ways . . . than I will forgive their sins, and will heal their land." (II Chronicles 7:14)

The promise is that with this repentance, and allegiance to God, comes healing, reconciliation, and new life.

We are made whole as persons, and we see that the wounds of the world can also be healed.

We can see this wholeness of life demonstrated in the person of Christ. As we receive for ourselves the love that molded His life, then our entire self can be transformed and made new.

Our whole understanding of leadership, and power, and the purpose of life is then recreated. A source of ultimate allegiance beyond the ego established in our hearts.

Then leadership is seen as the service to others.

We discover from the Scriptures that if we are to save our lives, we must lose them; we must give ourselves away for the sake of others.

We then have a standard of values that gives a basic framework of integrity for our lives, whether it be in our business or profession, or in political life in Washington. We can no longer seek power at any cost; we can no longer serve the demands of our ego; we can no longer isolate ourselves from reality, and vindicate our actions.

I am convinced that this is the only way we can guard against the vulnerability of leadership. I know of no other formula for the world's power than to give our lives over to a higher power, the power of God's love.

Of course, this can seem foolish in the eyes of the world. But there are times when each of us must choose where we give our final allegiance.

The one who follows Christ belongs to two "cities." He is in the world but must not be of the world. He is a stranger, a pilgrim. He is also a citizen of a different kingdom, he has another Master, his allegiance is to a new order from which he derives his ways of thinking, feeling and judging. His heart and thought and ties are elsewhere. He therefore cannot give ultimate allegiance to the world and its way of operating. His first duty is to be faithful to the Lord. The central life commitment for a Christian must be to the lordship of Jesus Christ.

In following this life, we are gripped by a vision of the world, and a love for all mankind.

We sense the mandate for every man to be made whole; for his physical and spiritual needs to be fulfilled, and his gifts to be expressed.

We see our swords being turned into ploughshares, and our spears into pruning hooks. "Every valley shall be exalted; every hill made low; the crooked made straight, and the rough places plain." (Isaiah 40:4)

We want justice "to roll down like a river," in the words of Amos, "and righteousness like an ever-flowing stream."

To the ears of conventional politics, this vision sounds almost irrational, irrelevant and totally unrealistic.

But the world normally regards God's word, and his truth as nonsense. The world believes in the power of power; the one who follows the life of Christ believes in the power of love.

Because of that love, we are compelled to give ourselves for the needs of others. We involve ourselves totally in the task of healing others, and healing the world.

So we find ourselves in the midst of the world, many times under conflicting demands and pressures.

Personally, I continually find it hard to know how, at any given point, to live out this calling. Frequently the way may not be clear at all. But when a difficult choice or decision is made, we must be open to wherever we may be led. And then we must rely simply on our faith rather than expect human certainly about every choice we make.

But while we may not always know all the precise answers and actions, we do know that leadership is expressed through service.

We cannot separate our allegiance to God from our love for our fellowman.

In our nation, this must especially include a love for the poor, and the dispossessed. Here again it is so easy for us to neglect the reality of God's judgment on us as a people.

We often tend to think that the millions of impoverished citizens in our land are merely an unfortunate fact of life. But God takes the suffering of the poor far more seriously.

What, for instance, was the greatest sin of the city of Sodom, which caused its destruction by God? Sexual immorality?

Listen to the words of Ezekiel, in the Old Testament: "This was the iniquity of your sister Sodom: she and her daughters had pride of wealth and food in plenty, comfort and ease, and yet she never helped the poor and wretched."

Wherever wealth abounds, and the poor continue to suffer, we must confront God's judgment.

Christ opened his public ministry by rising in the synagogue and reading these words: (from Isaiah)

"The spirit of the Lord is upon me because he has annointed me; he has seen to announce good news to the poor, to proclaim release for prisoners and recovery of sight for the blind; to let the broken victims go free, to proclaim the year of the Lord's favor."

He began to speak: "Today," he said, "in your very hearing this text has come true."

If we are gripped by this love, then we will have an unquenchable compassion for the poor and the needy.

When we consider the crisis of these days for our nation, we can learn from our history.

The thought of turning our national attention, at appropriate times, to the need for repentance should not be foreign to us.

President Abraham Lincoln had a profound sense of the sovereignty of God. He knew how the nation stood accountable to God's judgment. In the midst of the Civil War, the U.S. Senate requested President Lincoln to set aside a day for national prayer and humiliation. That might be a very appropriate action for the U.S. Senate to take today.

On April 30, 1863, three months after the Emancipation Proclamation, and three months before the battle of Gettysburg, President Lincoln composed a Proclamation for a Day of Humiliation, Fasting and Prayer.

"Whereas, it is the duty of nations, as well as of men, to owe their dependence upon the overruling power of God, to confess their sins and transgressions, in humble sorrow, yet with assured hope that genuine repentence will lead to mercy and pardon, and to recognize the sublime truth, announced in the Holy Scriptures and proven by all history, that those nations only are blessed whose God is the Lord. . . . And, Inasmuch as we know that . . . We have been the recipients of the choicest bounties of Heaven. We have been preserved these many years in peace and prosperity. We have grown in numbers, wealth, and power as no other nation has ever grown. But we have forgotten God. We have forgotten the gracious hand which preserved us in peace, and multiplied and enriched and strengthened us; and we have vainly imagined, in the deceitfulness of our hearts, that all these blessings were produced by some superior wisdom and virtue of our own. Intoxicated with unbroken success, we have become too self-sufficient to feel the necessity of redeeming and preserving grace, too proud to pray to the God that made us.

"It behooves us, then to humble ourselves before the offended Power, to confess our national sins, and to pray for clemency and forgiveness."

Rebuilding the inner strength of our nation today requires the same of us, in each of our hearts.

## FECA DISABILITY BENEFITS

Mr. BAYH. Mr. President, I have introduced legislation, now pending, to make Federal Employee Compensation Act—FECA—disability benefits available to policemen and firemen injured in the line of duty. The reason for this proposal, as I explained when introducing the legislation, is to recognize the vital role filled by these public servants. Moreover, the work of law enforcement officials and firemen often involves great personal risk which these able people encounter routinely.

During the recent recess there was a perfect example in Indiana of the kind of risk taken by the public servants who would be the beneficiaries of my legislation. A Wabash, Ind., fireman, Ross Martin, put his own life on the line to save a fellow Hoosier from drowning in the Eel River. The story of this rescue was graphically related in an article written by Kurt Dove for the Wabash Plain Dealer. I request unanimous consent to include that article in the RECORD following my comments.

We have here, Mr. President, an act of great personal bravery and a fine example of the basis for the legislation I have offered. I think a reading of this article makes the best case possible for my bill and I commend it to my colleagues' attention. I ask unanimous consent that the newspaper article be printed in the RECORD.

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

[From the Wabash Plain Dealer, Apr. 23, 1973]

FIREMAN SAVES LIFE OF BOATER

(By Kurt Dove)

Wabash city fireman Ross Martin was credited with saving the life of a 22-year-old Peru man Sunday afternoon after the man's boat capsized in the rain-swollen Eel River near the Stockdale Dam just west of Roann.

The man, Roger Orpurt, 169 E. Eighth St., Peru, is in fairly good condition today at the Wabash County Hospital suffering from exposure and exhaustion.

The rescue at 4:36 p.m. Sunday ended over 30 minutes of daring rescue attempts by Martin and Wabash County deputy sheriff Charles E. (Chuck) Cable.

Firemen and county police received word Orpurt was trapped in the river at 4 p.m. Sunday. It is theorized he might have been trapped for over an hour before then. He was wearing an inflatable life preserver and was clinging to a tree branch in the swirl of water just below the dam.

The water current prevented him from going any direction, Martin said.

Martin and Cable entered the river in an attempt to reach Orpurt. Both had ropes tied around them and Martin had an inner tube with a rope around it. Both were pulled under the water and had to be pulled back to shore the first time.

When Orpurt lost his grip on the tree branch and appeared to be unconscious, Martin, despite the fact that he had swallowed a great deal of water when he pulled under during his first attempt, reentered the water.

He was successful in reaching Orpurt the second time. Several bystanders and police officers and firemen were successful in pulling Orpurt and Martin back to shore.

"Just the top of his head was showing," Martin said, "when I reached him. His head was bobbing up and down."

Martin said he attempted to keep Orpurt's head out of the water while the group was pulling them both back to shore but the current made the task impossible "about half the time."

"I was scared to death," Martin said, "especially when I was pulled under the first time."

"I just didn't feel like I could just stand there and watch him drown. I just couldn't stand there," Martin said.

Both Martin and Cable suffered rope burns and scratches in their rescue attempts. Cable was treated at the Wabash County Hospital and released.

"I was pretty tickled just to have rope burns and still get back out of there," Martin said.

Prior to Martin and Cable entering the water, attempts were made to throw Orpurt a rope but efforts proved fruitless. It soon became apparent that someone would have to enter the water and reach him.

While rescue efforts were being made from the shore, State Trooper Duane Larsh and an unidentified bystander got a boat and tried to paddle upstream to Orpurt. The pair did not get far until the swift water broke one of the oars.

The boat, Martin said, came from a nearby resident.

"We didn't think we had time to call for ours (the city fire department's)" Martin said.

It is not known how long Orpurt had been in the water prior to his discovery.

It is thought the mishap might have happened around 3 p.m. Two young men hunting mushrooms down stream saw his empty boat floating downstream and went to investigate.

When Orpurt was first seen, they called the Roann Volunteer fire department. Roann, in turn, called the city fire department and the sheriff's department.

Several people, in addition to police and firemen, stopped to lend a hand.

In addition to Martin, city firemen Ray Hart responded in the city's emergency unit and, in addition to Cable, the sheriff's department had patrolman Norval Faurot there. Three state conservation officers also responded to the call for assistance, as did several Roann volunteers.

Police have not been able to talk with Orpurt. It is not known if he was going upstream and pulled into the swirling waters by the undertow near the dam or going downstream and went over the dam when his boat capsized.

## PROBLEMS FACING SMALL TOWNS

Mr. HATFIELD. Mr. President, as my colleagues are aware, a prime concern of mine is the continued economic vital-

ity of the rural areas and small towns around the country. Too often, we address ourselves to "urban problems"—overlooking the fact that it is the continued migration from rural areas and small towns that is contributing to these problems. I feel strongly that we will not solve urban and suburban problems that are on the increase until we get at a prime contributor to this problem—the decay of small towns.

This underlies my involvement with the rural water and sewer program, for without adequate water and sewer systems no new industry can locate in our smaller towns. Therefore, young people go to larger towns in search of work, and thereby cause greater population growth in the suburbs. Remaining people in small towns often are older people, with growing numbers on fixed incomes, and they are unable to fund water and sewer programs.

Mr. President, this was called to my attention again recently by an article by David Conn in the Baker Democrat-Herald on May 4, 1973.

The article touches on an aspect of problems facing small towns, and I call it to the attention of my colleagues. Congress must not lose sight of some of these under-the-surface problems facing small towns. David Conn's article relates some of them, and I ask unanimous consent that it be printed in the RECORD.

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

PRESSURES GREAT IN SMALL TOWNS

(By David Conn)

Most city residents have wished at least once to live in a small town like Baker where living pressures are less intense.

However, the pressures one experience in living today exist everywhere, and towns like Baker are no sanctuary, according to Mental Health Clinic Director Bill Stacy.

"In a small town there are fewer resources available to people so they can cope with pressure," he said.

Stacy claims people in a small town are forced to make as many decisions as city residents, and decisions take energy, and people have only so much energy.

Young people and young married couples "have fewer socially acceptable recreation activities in a small town like Baker," he said.

Stacy indicated that young people in larger cities have a choice of places to go, but choices are limited in a small town.

Despite Baker being well-endowed with outdoor recreation, Stacy pointed out to enjoy it costs money.

"It's expensive to buy camping equipment and go camping, or to buy a camper or snowmobile or whatever," he explained.

In a city, more recreation resources are available to help a person cope with day-to-day living, Stacy added.

Since there are few socially acceptable recreation facilities available in a small town, Stacy said then obviously people are more inclined to turn to socially unacceptable methods to cope with pressure.

Young people in Baker County often turn to "prescription parties," or "salad parties," he explained, where each member of a group brings several different kinds of pills from home, mix them up, and take whatever is there to see what effect they have.

The pills consumed in a salad party may consist of bizarre combinations, like diet, tranquilizer and sleeping pills.

"This is an inexpensive way to cope with pressure," Stacy said. "Therefore, this type of activity is more likely to be found in a small town because often the young people involved cannot afford what recreation is available to them."

About 14 percent of the families in Baker County are living at or below the poverty level, compared to less than half that in the Portland area.

"There is a higher income level in the larger cities, so people have more resources available to them," Stacy said.

Small town living pressure seems to affect primarily the young, including young housewives.

"These young women with one or two children feel trapped at home in preparing meals and taking care of the kids," Stacy said.

He added, "She has few acceptable outlets if the husband is not understanding by providing diversions for her."

This situation is fairly common in the county, according to Stacy, and these women often experience stomach cramps, headaches and constipation.

"This is a strong bearing on the high divorce rate in the county," he pointed out. "The mean divorce rate per 100 marriages in the county from 1969–71 is 58.3, which is above the state average."

Union County's mean divorce rate per 100 marriages is 46.3 and Malheur County records 27.4.

Stacy said that in a larger area, housewives can go to the "Y" and choose from a wider variety of community activities.

"The YMCA is the best thing that has happened to Baker in the last several years," Stacy contends. "It is something people can use even if they cannot afford it, and they can participate as a family."

He said another good activity in Baker is the Crossroads Arts Center where a child can learn to paint, make pottery or participate in a play.

Another good facility for people without money for recreational pursuits is the county library.

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## THE TRADE REFORM ACT OF 1973 AND THE UPCOMING TRADE NEGOTIATIONS

Mr. JAVITS. Mr. President, today the Congress begins a historic legislative process which the world will watch with close attention. I refer to the Ways and Means Committee hearings on the Trade Reform Act of 1973. The administration has submitted this bill to the Congress after a lengthy period of consultation.

I would like to draw to the attention of my colleagues that as the Congress undertakes the lengthy process of enacting trade legislation, a parallel procedure is going forward in the European Common Market to determine the type of negotiating mandate that the Common Market negotiators will bring to GATT level ministerial talks which are scheduled to open in Tokyo this September. In the summit communique which was issued by the heads of government of the enlarged European Community in October of last year, the European Community pledged itself "to decide not later than July 1, 1973, on a global approach covering all aspects affecting trade".

Progress has been made toward developing such a global approach and in April the Commission of the European Communities prepared a memo for the Community's Council of Ministers, setting out an "overall approach to trade for the coming multilateral negotiations in GATT." The Council of Ministers will make its decisions in June.

When I met with EC Commission President Ortoli late last March, I emphasized that the decisions of the Council of Ministers would be watched closely by the U.S. Congress and would have an effect on the type of negotiating mandate the Congress granted to the President. I urged upon President Ortoli that a very broad negotiating mandate by the EEC would be helpful in terms of the U.S. Congress considering for President Nixon a broad negotiating mandate.

I ask unanimous consent that at the end of my remarks that the European Community Background Information document "GATT Negotiations: The EC Approach" be printed in the RECORD. I also ask unanimous consent that an article and an editorial which appeared in the Journal of Commerce on the EC proposed negotiating mandate be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. JAVITS. There is a final point I would like to emphasize, Mr. President, and that is that even while the Congress is considering the Trade Reform Act of 1973, meaningful trade negotiations with our major trading partners will be continuing as they have during the proceeding months. For example, the United States made its interest clearly known as the EEC Agricultural ministers hammered out an accord in late April on the new level of EEC farm prices for the coming 12 months. Following what the New York Times characterized as "one of the bitterest and most contracted session in the history of the Common Marlet," a compromise agreement was reached. The New York Times news story of April 30, 1973, on this agreement stated:

The United States has little to complain about in the accord. What Washington feared mostly was a large increase in grain prices, which would tend to check American sales in Europe. The increase in grain prices was held to 1 percent. The United States put a good deal of pressure on the Europeans to keep the grain price increase within reasonable limits. At one point Agricultural Secretary Butz said publically that any increase at all in Common market grain prices would be most "unfortunate". The American pressures combined with the widely recognized need of the Europeans to increase livestock production was probably responsible for the decision to raise grain prices very moderately.

U.S. negotiators apparently handled this situation very well and they were aided by the inflation that is raging in Europe which makes rising food costs a particularly sensitive issue, as it is in the United States.

There is an additional area where U.S. negotiators are also making progress with the Europeans and this is in the area of "proliferating preferences." Without the pressure of U.S. officials, I doubt very much that Sir Christopher Soames who is in charge of external re-

lations for the European Community would have stated on April 5:

I must also make it clear that the Community does not seek to extend its policy of association and preferential trade beyond the limits which history and close geographical links have made necessary. In fact I say quite categorically that the Commission, having considered this question, has no intention of proposing any additional agreements of a preferential kind with countries which lie outside Africa, the Mediterrean Basin and the list of other developing countries referred to specifically in the Treaty of Accession.

I am not claiming that this statement represents a significant movement, but it does most certainly represent a degree of movement in the right direction.

Turning to the particularly sensitive area of reverse preferences, Sir Christopher stated:

My next point is that we do not propose to ask for any reverse preferences from anyone. The Commission has made it abundantly clear in the paper it adopted yesterday that it believes we should not seek any preferences for our goods as against American goods or Japanese goods or those of any other trading country.

In my opinion, this also represents progress.

Finally, it should also been noted that substantial progress has been made over the past year in opening the Japanese economy to trade and investment. While these steps were long overdue, this does not mean that they are not enormously welcomed. In this respect also, let me say that the more than 35 percent realinement of the yen against the dollar since December 18, 1971 should go a long way toward narrowing our substantial trade deficit position with Japan and there are already indications that this indeed may be the case.

These are the views I wished to share with my colleagues in the Congress today as formal congressional action on the Trade Reform Act of 1973 begins.

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

EXHIBIT 1

GATT NEGOTIATIONS: THE EC APPROACH

The Commission of the European Communities has prepared a memorandum for the Community's Council of Ministers, setting out an "overall approach to trade (for) the coming multilateral negotiations in GATT." GATT is the General Agreement on Tariffs and Trade.

The following text is a slightly abbreviated version of this brief prepared by the Commission:

THE BACKGROUND

The establishment of the EEC in 1958 brought about an important expansion of trade within western Europe and between the Community and the rest of the world. This was to some extent due to the effect of successive rounds of GATT multilateral trade negotiations. But the GATT system, which freed the post-war world from the arbitrary nature of the purely national trade policies of the Thirties, ceased to do justice when a large number of medium-sized or small partners were confronted by one of far greater power.

Universal equality, as expressed in the most-favored-nation rule, contrasted too starkly with the inequality which in practice existed between trading nations in terms of weight and, therefore, commercial possibilities. Hence the move toward free trade areas and customs union.

Following the establishment of the EEC, the industrialized nations—particularly Europe and the United States—agreed to mutual reductions in trade barriers, within modest limits in the Dillon Round, but on an unprecedented scale after the United States Congress passed the Trade Expansion Act (Kennedy Round).

The Community emerged from these negotiations with the lowest customs tariff of any of the major trading powers, amounting to hardly more than half the average of the original tariffs of its Member States.

The prospect and subsequent implementation of this vast work of liberalization, accompanied by almost uninterrupted economic expansion within the Community, have contributed to a remarkable expansion in international trade. This in turn has provided the basis for a high and stable level of employment and the rise in the standard of living in recent years—factors of considerable political significance.

TRADE LIBERALIZATION TO CONTINUE

It is now for the enlarged Community to continue the policy of trade liberalization to which the original Community made so significant a contribution, and which had such a profound effect on its development. Only thus will the Community live up to the international responsibilities which flow from its economic size and power.

Even before enlargement, the Community on several occasions expressed the political will to undertake wide-ranging negotiations with its trading partners. In December 1971 the Council declared that "the Community is ready (. . .) to take part in overall negotiations on the basis of mutual advantage and reciprocity and requiring an effort from all the participants." This was confirmed by the "Joint Declaration" which accompanied the limited agreement with the United States of 1972, which affirmed that it was necessary to "begin, and give active support to, wide-ranging multilateral negotiations in GATT."

In October 1972, the Summit Conference invited the Community Institutions to define an "overall approach" to this negotiation by July 1, 1973 and expressed the hope that they would be concluded before the end of 1975. It is to this end essential that all the partners should undertake the preparations necessary to ensure that negotiations can begin as soon as possible after the summer of this year.

The document which the Commission is now submitting to the Council sets out its proposals for an overall approach. Since the time is not ripe for a decision on all those negotiating points on which the Community will have eventually to take up a position, it confines itself to treating in general terms the subjects to be covered and the broad lines to be followed to arrive at results satisfactory for all those taking part.

It must, however, be clearly stated that the large-scale international action to which we aspire on trade would be seriously jeopardized if ways were not found to shield the world economy from the monetary shocks and imbalances which have occurred in the last few months. The present Memorandum deals only with trade negotiations and proceeds on the assumption that adequate machinery will be devised capable of ensuring the essential long-term equilibrium and stability in the monetary field.

GENERAL OBJECTIVES OF THE NEGOTIATIONS

A Council Resolution of December 13, 1971 noted that changes in economic relations necessitated an overall examination of the world economic structure and the conditions for a new international balance, which would enable the standard of living to be improved by expanding international economic relations and liberalizing world trade to an ever wider extent.

Starting from these general considerations, the Community's objectives in these negotiations are defined as follows:

1. To consolidate and continue the liberalization of international trade on the basis of reciprocity and mutual advantage.

2. To improve the opportunities for the developing countries to participate in the expansion of world trade and to ensure a better equilibrium between developed and developing countries as regards the opportunities for this expansion. The Community will, for its part, contribute actively to this objective without jeopardizing the advantages enjoyed by those countries with which the Community has special relations.

INDUSTRIAL CUSTOMS TARIFFS

As far as tariffs are concerned, the trade negotiations must lead to a significant lowering of customs tariffs on industrial products. The formula must be simple and generally applicable. While recognizing that mutual advantage and reciprocity must be sought in the overall outcome of the whole range of the negotiation, the aim should be to seek, so far as possible, reciprocity in each individual field, in particular as far as tariffs are concerned.

It has been suggested that the total elimination of all customs tariffs might be taken as a working hypothesis for these negotiations. In the present state of international economic relations this does not seem realistic for two main reasons. First, because of the extent of customs duties on certain products and in certain countries, which protect economic sectors that are already experiencing real difficulties in standing up to competition; and secondly because of the lack of international organization and harmonization of national policies concerning, for instance, taxation, social legislation and measures to stimulate economic development.

The formula for lowering customs tariffs must necessarily take into account the considerable differences which exist between the tariffs applied by the developed countries. Quite apart from the question of the general level of tariffs, there are also structural differences. Some countries apply tariffs of a roughly homogeneous level to all products while others apply very high tariffs to some products and much lower ones to others.

The formula adopted should aim, within the overall objective of lowering tariffs, at leveling off the differences caused by these peaks and troughs. This would have the effect of creating more equitable conditions for trade and diminishing the present inequalities in the tariff protection of the various developed countries.

This is the only approach which would make it possible to avoid a situation in which, following further reductions of customs tariffs, some would be so low that certain countries would have little hope of subsequently obtaining reductions in the higher customs duties which others would still be maintaining.

SLASHING THE PEAKS

The formula for lowering tariffs should therefore be based on the principle of the higher the tariff the greater the reduction of customs duty.

A threshold or floor should be set below which no reduction would be required, which would prevent those countries with highly diversified customs tariffs being obliged to lower them to such an extent that it would be difficult to achieve reciprocity. The formula should take into account that the real level of protection has to be calculated on the basis of the value added.

This general approach should in no way exclude the possibility of seeking during the negotiations, on a basis of reciprocity, concessions going beyond the general rule and aimed at eliminating customs duties on certain products.

The further lowering of customs tariffs inevitably involves a reduction in the preference margin from which developing countries

benefit in those developed countries which have introduced the Generalized Preference Scheme.

In anticipation of the implementation of the Generalized Preference Scheme by all developed countries, the Community should take steps to improve its own scheme in accordance with the directives given by the Conference of Heads of State or Government in October 1972.

NON-TARIFF BARRIERS

The diversity of non-tariff barriers makes it unrealistic to seek a solution of a general character; there must therefore be a case by case approach.

The existence of so many types of non-tariff barriers (classified by GATT under nearly thirty chapter headings, each subdivided into a number of more or less similar individual measures applied by different countries) seems to preclude finding solutions for all the measures listed. It is therefore desirable that certain types of measures be selected on which negotiation would take place but without excluding the possibility that other barriers may be added to the list in the course of the negotiations, should this prove necessary.

Work has already begun, or will shortly begin, in GATT or the Organization for Economic Cooperation and Development, on subjects chosen by mutual agreement which will almost certainly be the object of negotiations. These consist of quantitative restrictions ,including voluntary limitation of exports), customs valuation, licensing systems, technical standards and regulations, labeling and packing, export subsidies and other aids affecting commerce, countervailing duties, and government procurement.

Reciprocity is harder to assess over non-tariff barriers than over customs duties, so a broad spread of solutions will be needed to make up a worthwhile and well-balanced package.

BUILT-IN IMBALANCES

Many similar measures are applied by a large number of countries and therefore lend themselves to multilateral solutions, whether by abolition or amendment or by agreement on greater harmony or discipline. These solutions may involve constraints of varying degrees, and may take the form in some cases of interpretive notes to the existing provisions of the General Agreement, and in others of general principles or codes of behavior.

Although it is clearly desirable to aim at the maximum degree of balance between commitments in each subject negotiated, it should be recognized that in certain subjects there are from the outset some built-in imbalances. For certain measures which are applied by only one or two countries, the solution may take the form of a single limited decision (abolition or adaptation), without there being any need to lay down general rules.

The Community will have to specify the non-tariff barriers of its trading partner which it wishes to see dealt with in the negotiations. It will no doubt be desirable to supplement the list of subjects with a limited number of other measures.

For their part, the Community and its Member States must also declare their readiness to negotiate on some of the measures they themselves apply, in seeking a multilateral or restricted solution. Since, in the nature of things, it is essentially the Member States' measures that are at issue here, they must agree in the near future on a sufficient number of negotiable measures to enable adequate reciprocity to be offered in return for those concessions which the Community will be seeking from its partners.

The solutions arrived at should be accepted by as many countries as possible if the existing imbalance between the various contracting parties is not to be worsened. It should therefore be made clear that any advantages which might derive from solutions comprising obligations going beyond the present GATT rules would be reserved for countries which in practice abide by these solutions (conditional application of the most-favored-nation clause).

With this same need for balance in mind, all the contracting parties should cease to benefit from the exemption provided by the Protocol of Provisional Application.

The agreement reached on non-tariff barriers should include appropriate machinery for consultation and the settlement of disputes. This machinery would both deal with differences in interpretation of the agreement and with any outstanding difficulties not dealt with in the negotiations or with any non-tariff barriers which may appear after conclusion of the negotiations.

EXPANDING AGRICULTURAL TRADE

The objectives of the negotiations in the agricultural sector should be in harmony with the general objectives of the negotiations but should also take into account the fundamental and specific characteristics of agriculture.

Two characteristics of the agricultural sector are the universal existence of support policies—of which the internal and external aspects are inextricably linked—and the instability of world markets. The specific objective of the agricultural negotiations should therefore be "the expansion of trade in stable world markets."

As the structural situation is at the root of many agricultural problems, there should be an undertaking, in order to attain this objective, to intensify structural reforms so that marketing policies and price policies are based to a greater extent on economic considerations.

The conditions for expanding trade would be more favorable if the stability of world markets was better assured. The best means of obtaining this objective would be the adoption of a code of good conduct covering export practices. For a number of specified products, complementary commitments could be entered into within the framework of international arrangements.

The code of good conduct on export practices should aim at introducing market disciplines with concerted action on the use and scope of the rules agreed.

For products such as cereals (wheat, flour, and feed grains), rice, sugar and the most homogeneous milk products (e.g., milk powder and butter), the Community will propose the negotiation of a price mechanism (including minimum and maximum prices) accompanied by measures covering an adjustment of supply, including measures of storage which would, among other things, facilitate the application of food aid programs.

The Community considers that the best method of applying such engagements would be by the negotiation of international arrangements. This reordering of world markets would make it possible to adjust certain elements of the import systems.

The aim of all these measures would be to promote the regular expansion of trade. For its part the Community would apply the instruments of its common agricultural policy in such a way as to ensure that the commitments thus undertaken were respected.

The problems caused by the harmonization of legislation covering both human and plant health and of the various rules on the use and treatment of products should also be covered in the negotiations.

Although the measures set out above are aimed at improving world markets which will also benefit developing countries, the developed countries should also take additional action on those products of particular interest to the developing countries. This would for example take the form of measures of a preferential character, which would give these countries a chance to increase their export revenue.

THE DEVELOPING COUNTRIES

The developed countries have agreed to take particular account in these negotiations of the interests of developing countries. That is to say, the developed countries will not only try to ensure that the developing countries do not suffer indirect disadvantages, but will also help to expand the developing countries' trade and improve their export revenue.

This was emphasized in the declaration of intent made by the Community on 13 December 1971, in the Joint Declaration by the United States and the Community in 1972 and again in the communique of the Summit Meeting in October 1972—which also states that the task will have to be accomplished without detriment to the advantages enjoyed by those developing countries with which the Community has special relations.

The Community's objective as regards the developing countries in general should be to achieve a coherent body of measures and a balanced contribution by industrialized countries.

There are, however, great differences between the levels and the opportunities of development in the various developing countries, so the Community would wish to reserve for itself the possibility of varying its action to meet the particular needs of individual countries. Such variation could relate, in particular, to the nature of the concessions made to different developing countries, to the choice of products, and to a degree or reciprocity which might be required of the more advanced developing countries.

UNITED STATES SHOULD SHARE BURDEN

In the field of generalized preferences, the Community would wish to improve the scheme which it has been applying for nearly two years now. But these improvements must be dependent upon other industrialized countries, and in particular the United States, introducing a scheme comparable in its effects with the Community scheme.

Subject to this condition, the system of generalized preferences could be improved in two ways: firstly, by including a larger number of processed agricultural products in the list of products which benefit from preferences and by increasing the margin of preference for those already included; and, secondly, by raising the quantitative ceilings and making the detailed rules of application more flexible.

The proposal mentioned earlier that there should be no reduction in duties below a certain level would mean in effect that a margin of preference for developing countries would be maintained in these special cases.

Finally, the Community reserves the right to propose to other developed countries in the course of the negotiations that by joint agreement exceptions to the general formula of tariff reduction might be introduced for a small number of products which are included in the system of generalized preferences and in which the less developed countries have a particular interest.

In the field of non-tariff barriers the developed countries should endeavor to take particular account of the interests of developing countries both in adapting rules and in reducing or abolishing certain quantitative restrictions which especially affect exports from developing countries.

In return, the developing countries could make a contribution which would be in their own interest by simplifying their administrative system for imports.

In any international arrangements to regulate the markets for certain agricultural products, the interests of the developing countries should be taken into account, in

particular through efforts to lighten the burden which some of the provisions could involve for these countries. Food aid commitments can be envisaged in the context of regulation of the markets.

SAFEGUARD CLAUSE

The object of a safeguard clause must be to enable purely transitory difficulties to be overcome or to give the branches of activity concerned the period of adaptation which they need in order to adjust themselves to the requirements of international competition.

The current provisions of Article XIX (on the "escape clause") of the General Agreement should be maintained as they are. It must, however, be recognized that this Article has proved difficult to operate effectively. For this reason it might be advisable to supplement it, on the understanding that the countries concerned would retain their right to have recourse to the current provisions of Article XIX. Such a supplement to Article XIX could provide for it to be used in a selective fashion.

This new system would on the one hand involve both greater flexibility in the type of safeguard measures allowed, and a limitation in the compensatory or retaliatory rights of the third countries concerned. On the other hand any country having recourse to it would have to accept increased control procedures and requirements relating to the conversion or adaptation of the economic sectors concerned.

The scope of these supplementary arrangements might be, firstly, to prevent the measures from having a more extensive impact than is necessary, a selective application as regards the form of the measure would have to be authorized while maintaining non-discrimination as regards its substance. All imports which contribute in the same way to disorganizing the market would be dealt with in the same manner. Secondly, the character of the safeguard measure could vary, on the understanding that imports would not be restricted to a level lower than that reached during a short reference period before the measure was applied.

Recourse to these measures should be temporary, and their mode of operation should be degressive. It will be a necessary condition of the temporary nature of the measures that agreed adjustments take place during the period of recourse to them.

The right of injured countries to compensation or to compensatory withdrawal would be suspended provided all the conditions are fulfilled.

Taking into account the greater flexibility thus provided for in these arrangements, a permanent institutional supervisory mechanism consisting of independent personalities should be set up to which possible disputes could be referred. It would be necessary to make the emergency procedure really exceptional. Prior notification should be demanded in all cases.

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[From the Journal of Commerce, Apr. 26, 1973]

U.S. OFFICIALS GENERALLY PLEASED BY EEC TRADE TALKS MANDATE

(By Richard Lawrence)

WASHINGTON, April 25.—Administration officials are generally pleased with the European Common Market Commission's trade negotiations mandate proposed last week in Brussels.

But the mandate, winning scant public attention here, includes points, especially in agriculture, that could prove troublesome for Washington.

The proposals, which would set Common Market policy on tariff and nontariff trade bargaining and new import "safeguard" rules, were submitted to the Common Market's nine member governments, which are expected to act by July 1.

The proposed mandate's overall tone is widely applauded here, as it urges liberalization of world trade and an expansion of international economic relations, with a plea for a special effort to open world markets to poorer nations.

LOWERING OF TARIFF

In general, the commission recommended a "significant lowering" of industrial tariffs in the forthcoming negotiations, the reduction or removal of a wide array of nontariff barriers, and new international agricultural trade rules.

It proposed more special concessions to developing countries and a new international "safeguard" provision, along the lines of U.S. thinking, to help import-sensitive industry adjust to foreign competition.

As for tariffs, the commission said, the negotiations formula must be "simple and generally applicable," but it ruled out "total elimination" of tariffs. Some industries are in competitive trouble, it explained, and, besides, nations have yet to harmonize tax, social and other policies.

The commission, however, revived an old Kennedy Round Issue that a major aim of the negotiations ought to be the "leveling-out" of tariff "peaks and troughs." The higher the import duty, it said, the greater should be the reduction.

UNITED STATES MIGHT RESIST

The U.S. is regarded as one country with a number of unusually high tariffs, although its average tariff is roughly the same as the Common Market's. "A leveling-out" formula could meet resistance here, as it did in the Kennedy Round.

To deal with nontariff barriers, the commission's recommendations closely paralleled the Nixon Administration's. The barriers, the panel said, must be negotiated "case-by-case," sometimes through international "codes of behavior."

As likely nontariff negotiation issues, it listed import quotas, voluntary export restraints, customs valuation, licensing systems, technical standards, labeling, export subsidies and government procurement practices.

Nontariff agreements, it said, should be accompanied by international "machinery" for helping countries consult on trade problems and settle disputes.

The goal of international farm negotiations, the commission said, would be "the expansion of trade in stable world markets." It proposed "structural reforms," basing marketing and price policies more on "economic considerations," a concept that U.S. officials fully endorse.

The commission also proposed negotiating a "code of good conduct" for agricultural exporters, to help assure "market stability." It did not say, however, what the code ought to comprise.

For some products—grains, rice, sugar and dairy products—the commission urged international agreements fixing minimum and maximum prices, providing for "storage" in times of oversupply and more "food aid" to the poorer countries.

The agreements, it said, would "promote the regular expansion of trade" and make it possible "to adjust certain elements of the import systems." The products cited are under the Common Market's protectionist variable import levy system.

The U.S., however, is expected to oppose new price-fixing pacts, and insist on freer market conditions, especially in grains, meat and poultry.

To help industry adjust to import competition, the commission called for more "flexible" trade rules, including approval of "selective" import restrictions against individual countries. Any quota restrictions, it said, should not reduce imports below recent levels.

Nations applying only temporary curbs while helping an industry adjust should not have to compensate others for the restrictions, the commission said, echoing a Nixon Administration proposal. It urged a permanent supervisory panel to handle trade disputes.

For the poorer nations, the commission proposed that the Common Market expand its "general tariff preferences," by enlarging present tariff quotas and giving more processed farm products free entry. The recommendations was hinged, however, on the U.S. extending general preferences to developing countries, which President Nixon has proposed.

The commission also suggested exempting from the industrial nation tariff negotiations "a small number" of goods to let the poorer countries retain their tariff preference margins.

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[From the Journal of Commerce, Apr. 27, 1973]

A MANDATE FROM BRUSSELS

It almost goes without saying that if Mr. Nixon's hopes for some new kind of Atlantic Charter are to be realized in the foreseeable future, the United States, the Common Market, Canada and, as the President advocates, Japan must find some way of aligning their currently divergent trade policies.

This is not to downgrade matters involving NATO and other forms of military cooperation, or of dealing with the Organization of Petroleum Producing Countries, or any of the other factors cited by Mr. Kissinger in his admirable address to the Associated Press luncheon in this city on Monday. It is simply to note that unless these powers agree on compatible trade, monetary and investment policies, whatever progress they make in other directions will be of little real consequence.

Mr. Kissinger himself put his finger on this when he said "the gradual accumulation of sometimes petty, sometimes major economic disputes must be ended and replaced by a determined commitment on both sides of the Atlantic to find cooperative solutions."

Insofar as trade matters are concerned that commitment is certainly not beyond reach. Mr. Nixon has indicated that, like Barkis, "he's willing." And at Brussels last week the word was that the Common Market is willing, too.

That much was implicit, at least, in the mandate proposed in Brussels as a guide to the nine member governments in forthcoming trade negotiations. As noted in a Washington dispatch to this newspaper from Richard Lawrence on Thursday, most of the proposals fall pretty well in line with the Nixon Administration's thinking.

They contemplate a general liberalization of world trade generally, a "significant lowering" of industrial tariffs, as well as a leveling-out of their peaks and troughs, a new international code of "safeguards" for import-sensitive industries, special concessions to poorer countries and even provision for the selective import restrictions against individual countries that Mr. Nixon has been considering of late. They would also consider machinery to assist countries engaged in disputes over the so-called non-tariff barriers to trade that so nettle the United States to iron out their problems.

All this is encouraging, even though not as encouraging in all respects as Washington might like. Since the United States maintains some very high tariffs, as well as very low ones, proposals to level out peaks and valleys in the prevailing rates are not especially popular in Washington. On the other hand, Washington's proposal to move toward zero tariffs hasn't brought much response from abroad, either.

Unfortunately, the Brussels proposals are not so encouraging in the field of agriculture.

They contemplate a "code of good conduct" that agricultural exporters would presumably adopt in the interests of market stability. This last phrase is one that never fails to bother us because it covers such a multitude of sins.

In the parlance of the economic world, "market stability" is an objective of producers who want to keep prices of their products permanently at high levels. The Brussels group that produced this proposed mandate did not specify what the code of good conduct ought to entail. But tides of agricultural protectionism are still running strong in Western Europe, as witness what comes next.

What the Common Market's commission wants is more international agreements fixing maximum and minimum prices and providing for "storage" in times of oversupply and a greater degree of food aid to the poorer countries.

We have no objection to an extension of food aid programs in which other nations participate, but in all other respects we see in this proposal a move to bring all major agricultural products under commodity stabilization agreements of the type that has so distorted the coffee markets for years.

This is the kind of system under which the inefficient producer is subsidized by the consumer, and at the expense of the efficient producer which, in terms of grain and so many other important staples, means the United States.

However attractive such agreements sound in theory, past experience with them has shown that they have practically no effect on maximum prices, just on the minimums. Any community of trading nations electing to take this road within the context of a general trade agreement would be moving in precisely the wrong direction.

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## TRANSPORTING ALASKA'S OIL

Mr. BAYH. Mr. President, recently I had an opportunity to testify before the Interior Committee on legislation (S. 1565) which Senator MONDALE and I, along with nine cosponsors, have introduced relating to the best means of transporting Alaska's substantial oil and gas reserves to the lower 48 States.

Because of the importance of this issue, and since the Senate will have to act in this matter in the near future, I request unanimous consent to print a copy of my prepared statement in the RECORD.

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

TRANSPORTING ALASKA'S OIL

Mr. Chairman, I appreciate this opportunity to testify in support of S. 1565, the North Slope Energy Resources Act, which Senator Mondale and I introduced on April 12 with six cosponsors. Since that time, 3 additional Senators have asked to be listed as cosponsors of this legislation.

I want first to emphasize my hope that we can see rapid, effective, economic and environmentally responsible use of Alaska's oil and gas resources. Moreover, because of the magnitude of this issue, because *how* the oil and gas are transported can be as important as their actual use, it is my judgment that the Congress should make the final decision on how that oil and gas should be transported to the lower 48 states.

I shall not dwell on the obvious energy shortage which confronts us today and which will be with us for some time. Mr. Chairman, you understand this issue as well as any Senator and you have provided valuable leadership in responding to the imbalance between energy supply and demand. In fact, I was pleased to join as an original cosponsor of your National Energy Research and Development Policy Act which has the worthwhile goal of once again making this country energy self-sufficient.

Let me first review my concerns about the proposed Alaskan land and sea route for delivering oil from Prudhoe Bay to the lower 48 states.

One—The Pacific region, which would be the prime beneficiary of an Alaskan pipeline, currently provides most of the petroleum it consumes. The situation in the Midwest is quite different, with demand many times local supply. Because of this a barrel of crude oil currently costs 64 cents less on the west coast than in the Midwest. If the Alaskan land-sea route is adopted that price discrepancy will more than double to $1.43 per barrel. On the other hand, if an all-land trans-Canadian route is used to deliver the oil, the present discrepancy will be halved to 32 cents.

Two—Since it is generally agreed that the natural gas from Prudhoe Bay would have to transverse Canada, it would make sense to explore fully the possibility of a single corridor for the oil and gas with significant cost savings in rights-of-way, parallel road construction and other expenses associated fuel pipelines.

Three—There have been authoritative reports that the oil companies involved in the venture are contemplating the sale of as much as 500,000 barrels per day—25 percent of the oil from Alaska—to Japan. To export oil at a time when there is a serious shortfall between domestic supply and demand strikes me as ludicrous and I have been concerned by the absence of adequate assurances from the oil companies that none of the Alaskan oil would be exported.

Four—While recognizing that it will be impossible to utilize Alaskan oil and gas without incurring some environmental damage and risk, I think we must minimize that risk, even as we consider economic factors, consumer requirements, national security, delivery dates and the overall national energy situation.

Despite my reservations regarding the proposed Alaskan land-sea oil delivery route, I recognize that there are unanswered questions about the alternative—an all-land trans-Canadian route through the Mackenzie Valley.

I am satisfied that our legislation would provide the answers to those questions, permit the Congress to resolve this matter when a full body of knowledge has been developed, and not delay to any significant degree the ultimate utilization of the Alaskan resources.

Much has been said, despite the glaring absence of proper bilateral negotiations, about what conditions would or would not be acceptable to Canada if we want to have our oil transverse that country. We do know that the Canadian Minister of Energy, Mines, and Resources said only six weeks ago: "If the Americans came back and said to us, look, we've had second thoughts on that trans-Alaska pipeline, we would like to take you up on your willingness to entertain an application about the oil line through the Mackenzie route, I think the interests of the West Coast (of Canada) would dictate that the Government of Canada should enable that kind of application to go ahead."

Mr. Chairman, that appears to be a very open-minded statement. There are others like it on the record over a two year period.

To get at the answers about the feasibility of a Canadian route, our bill would request that the Secretary of State immediately open intensive negotiations with Canada, negotiations to be completed within nine months. Quite importantly, one point for negotiations would be the willingness of Canada to step up oil exports to the United States while construction went ahead. Here we could well find a short term solution to our energy shortage.

The recently completed feasibility study by Mackenzie Valley Pipe Line Research Limited, composed of affiliates of virtually all the major oil companies, was not available when this government made its commitment to the Alaskan route. Even with this study, there is the need for an independent body of information on the economic, environmental and other implications of a trans-Canadian oil pipeline. Our bill would help develop that body of information by directing the National Science Foundation to undertake just such a study.

Here, Mr. Chairman, we come to the crucial point of our bill. This study may be adopted, under the terms of the legislation, by the Secretary of the Interior as an environmental impact statement, or as part of such a statement, under the terms of the National Environmental Policy Act. This in no way subverts NEPA, about which I know you are justly concerned and for which you may take much of the credit. Nor does it discharge the issue from the courts, something which would be most unwise.

But this would expedite matters regardless of how Congress ultimately decided to transport the oil. If the Congress favored the Alaskan route, this study could well remove the major remaining point of litigation against the Alaskan pipeline, that being the adequacy of the consideration of alternative routes under the terms of NEPA. And, if the Congress ultimately favored the Canadian route, the impact study would be in hand, forestalling further delay.

The results of the negotiations and the NSF study would be provided to the Secretary of the Interior, to this Committee, and to the corresponding Committee in the House of Representatives within nine months. Within two months after that the Secretary of the Interior would bring to the Congress specific recommendations for rights-of-way across public lands for Alaskan oil and gas.

As stipulated in the legislation, the Congress would then have the responsibility to act expeditiously to approve those rights-of-way for transporting oil and gas which the Congress, weighing all information, felt most advisable.

Let me make it clear that our proposal should not delay significantly actual use of the energy reserves, since it could remove the main point of litigation delay associated with the Canadian route might well be wiped out through increased exports from Canada.

Finally, Mr. Chairman, a brief word about the rights-of-way problems resulting from the Supreme Court's decision of April 2. Consistent with what we believe to be the goals of this Committee, we would authorize the Secretary of the Interior to grant necessary rights-of-way across public lands, except for Alaskan oil and gas, for two years. However, after the first year, the Secretary would have to provide the Committee with the information enabling you to draw together a coordinated national policy on rights-of-way across public land.

It is not my intention to take an inordinate amount of the Committee's time. I wanted simply to share with you the reasons we offered our proposal. We feel it is the most responsible course for us to take. I reiterate that we are not seeking to delay utilization of the greatly needed energy resources in Prudhoe Bay.

In closing, let me urge the Committee to protect for the Congress the final decision on this question of great amount. And to protect it in a fashion which will enable us to make a thoughtful decision with all the necessary information before us.

## MAURIE JACOBS HONORED BY FELLOW CITIZENS

Mr. HATFIELD. Mr. President, one of my State's outstanding citizens is Maurie Jacobs, of Eugene. For years, he has been a tireless worker for a broad range of civic ventures aimed at improving life in Eugene.

Too often, contributions of people such as Maurie pass unrecognized. In this case, I am sure Maurie would have preferred to have it this way. A banquet honoring his many years of service to his community recently honored Maurie Jacobs for his outstanding service to his community and his State.

Under the leadership of such friends as Hale Thompson, the evening provided a warm recognition of this unique gentleman's contributions.

The Eugene newspaper provided a report of the evening, and I ask unanimous consent that this article of May 4 appear in the RECORD, followed by an editorial of May 6 from the Register Guard:

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

"SILENT SERVANT" HONORED

(By Dan Wyant)

It was, in the words of his wife Sylvia, a "wowie" evening. At least that's how long-time businessman Maurie Jacobs described the event at the Elks Lodge Thursday night.

More than 500 friends, associates and relatives gathered to offer a tribute to Jacobs' many community accomplishments.

"A man can't have that many virtues," he protested as testimonials flowed from speakers and members of the audience.

A Eugene resident for 36 of his 60 years, Jacobs was praised for his role in downtown redevelopment and off-street parking, for leadership in the acquisition of park lands along the Willamette River in Eugene, for his work with the State Willamette Greenway program and his efforts in Red Cross, United Appeal and Boy Scout fund drives.

The event, "An Evening with Maurie," drew an impressive number of out-of-state guests. Total attendance was 523 persons. Everyone of them rose for a standing ovation when Jacobs responded to the evening's many tributes.

From time to time Jacobs daubed away tears with a handkerchief as long-time friends recalled anecdotes from the past.

As the guests dined, toastmaster Hale Thompson read excerpts from a stack of letters and telegrams that came in Jacob's honor.

Oregon Gov. Tom McCall, who left Thursday with a delegation to Israel, pledged that he'd plant a tree in Israel in Jacobs' name.

"You've been one of the strongest warhorses in the battle to save the Willamette River," the governor wrote.

Former state Treasurer Robert Straub, who delivered the governor's greetings, said he's found no one in Oregon who measures up to the dedication, public service and quietness with which Jacobs has served.

Mayor Les Anderson of Eugene said Jacobs has the "rare quality of quiet effectiveness" which is bolstered by "an abiding faith in this community."

Portland Mayor Neil Goldschmidt, who grew up in Eugene, said he probably wouldn't be in office today if it had not been for Jacobs.

He said he turned to Jacobs for advice at more than one of the critical periods of his life.

Businessman Harry Ritchie presented Jacobs with a plaque "in recognition of meritorious leadership and unselfish service for the betterment of the community."

And County Commissioner Nancy Hayward presented a citation to Jacobs for distinguished service in acquiring park lands along the Willamette River.

Edwin Baker praised Jacobs for making Scouting "come alive for many boys and gave Jacobs a bullwhip as a token of his taskmaster approach to community fund campaigns.

Jacobs was born Dec. 18, 1912, on Chicago's west side. There, going to a park meant getting up at 4 a.m. on Sunday with his parents to catch a trolley to beat the rush.

That, said Thompson, accounts for Jacobs' long interest in parks, green grass and recreation.

Thompson said Friday that the tribute was the idea of several of Jacobs' close friends.

"There are times when you just want to do something nice for somebody," he said. "Maurie has certainly been a silent servant to the community throughout the years and we thought it was high time his contributions were recognized."

Jacobs came to Eugene in 1937 after moving to California with his parents and working for a clothing store in Portland.

The next year he and his wife opened the Sterling Furniture Co.

Their business is now M. Jacobs Fine Furniture at 725 Olive St., and is regarded as one of the West's leading furniture stores.

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FLOWERS FOR THE LIVING

Maurie Jacobs was embarrassed to happy tears Thursday night when some 500 persons gathered for a testimonial dinner in his honor and dozens of praiseful letters and telegrams were sent by other admirers who could not attend the event.

Most properly, the "evening with Maurie" emphasized the broad extent of his quietly effective civic leadership in this community during the last four decades. And, again most properly, accolades heaped upon him included praise for Sylvia Jacobs, his wife and hard-working long-time business helpmeet.

Mr. and Mrs. Jacobs would want it said here that they know a number of other area residents who should be paid special honor in abundance for community-improvement contributions made in abundance. And, as we see it, it is that quality of character as much as any other that friends and associates admire in these two fine people.

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## THE TRANS-ALASKA PIPELINE

Mr. GRAVEL. Mr. President, on May 1, 1973, the Honorable H. A. "Red" Boucher, Alaska's Lieutenant Governor, spoke before the Western Interstate Nuclear Board in Portland, Oreg. Mr. Boucher's remarks are very timely and serve to remind all Alaskans how fortunate we are to have our two top leaders as such effective spokesmen.

Alaskans recognize that our future lies in our ability to further our human and resource development. The long delay in constructing the trans-Alaska pipeline has had a disastrous effect upon our economy and our already precarious financial situation threatens to worsen. Our needs are great and pressing—and we ask the Congress to consider the problems of a sister State. While the State of Alaska would benefit immensely from construction of the pipeline in terms of revenue generated and employment for our citizens, the Nation would benefit even more with North Slope oil to help alleviate the critical energy shortage and to ease our balance-of-payments problem.

At this time I ask unanimous consent to have Lieutenant Governor Boucher's speech before the Western Interstate Nuclear Board printed in the RECORD.

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

SPEECH GIVEN ON MAY 1, 1973, AT WESTERN INTERSTATE NUCLEAR BOARD MEETING IN PORTLAND, OREG.

(By Lt. Gov. H. A. "Red" Boucher, State of Alaska)

I would like to thank all of you here today for allowing me to openly discuss with each of you a subject of concern not only to Alaska, but to her sister state(s) as well. It's a question of development at a time of national need versus out-dated federal restraint in the guise of environmental protection. Does Alaska, which certainly has the capability to be a "Nation-State", have the sovereignty to decide its economic future in the face of an impending energy crisis, or are our hands tied by crippling "out-of-date and out-of-touch" Federal legislation?

Every day we see our States' sovereignty being challenged by the Federal Government in areas of concern that would appear totally irrelevant to the well being of growth and development in our own States. What may be good for California and the people of that State may not apply at all to the people in Maine. It is time that we begin to think and act on programs that benefit our sister States as they relate to these United States.

At a time when the whole nation is facing an energy crisis and should be looking toward their fellow Americans for every possible resource to provide a solution with a united singleness of purpose, we are constantly being held back by environmental emotionalism, political, see-sawing in international oil fields, and a lack of leadership necessary to break through to solving the energy crisis in the interim period while on-going research can be refined to produce more sophisticated means of energy. Alaska can and should join our sister oil producing States to provide the "energy bridge" that is needed for our Nation.

Because of the delays in solving the pipeline issue, exploration in the vast Prudhoe Bay area and other potential oil producing areas in Alaska is practically at a standstill. Geologists tell us that the overall potential of additional large oil reserves within the State of Alaska are a reality. Your sister State, Alaska, has the opportunity to join with our other oil producing States allowing for America to increase her "energy independence" of foreign oil fields.

Up to now we have concerned ourselves with only energy. What about the other vital products that utilize oil as an important ingredient to their final form? The use of clothing, food, plastics, and a myriad of other articles are just as vital to our daily way of life as gas and oil are to our automobiles.

Alaska was purchased in 1967, but for 50 years there was almost total neglect . . . it existed largely as a military district under the jurisdiction of the army, navy and treasury departments. Territorial status was finally granted in 1912, but Alaskans continued to choke under the yoke of federal control and outside economic royalists.

Following the long battle for Statehood, Alaskans finally had the chance for political self-autonomy, and the right to wisely develop her vast natural resources for the benefit of her people. Congress, in writing the Statehood Act, recognized that Alaska did not have the economic base to totally support State Government and provided a land-

grant system which allowed the State to select 103 million acres . . . (roughly one-quarter of the total federal lands in Alaska) . . . and to sell and lease these lands as a way of generating direct economic revenue to the State treasury; thus stimulating economic development that would provide a recurring base of revenue for State Government.

Our fledgling State faced immense challenges. Poverty in the bush and the ability to provide only minimal services, in such vital areas as education and public health, were but a few of the problems that had to be solved. . . . However, despite Statehood, Alaska still functioned largely as a federal economy with the Federal Government controlling 90% of the State's land area . . . (Selection was a gradual process to be conducted over 25 years) . . . Our rate of economic growth was still largely dependent on decisions made outside of our borders. Vast sections of Alaska were set aside as National Parks, Wildlife Refuges and National Forests. The Forest Service exercised major control over our timber industry and outside economic royalists plundered our sea resources, leaving little in the way of taxes to support our new State's growth. In almost every way but superficially, Alaska was still a territory, outsiders still called the shots . . . I think it is high time that we were recognized as a responsible sovereign state and not as an economic playground for fanciful ideas. History pro-offers us an array of choices . . . If we do not make our needs known and our voices heard in a calm, forceful, and intelligent manner, others will make our choices for us.

PRUDHOE BAY DISCOVERY

Prior to 1968, the vast majority of our country looked upon Alaska as a land of igloos and polar bears . . . I recall a Wichita hotel clerk asking me in 1962 what kind of money we used in Alaska . . . They have come to know the answer to this during the past ten years . . . In fact, there are those who come to Kansas each August and wish Fairbanks and Anchorage were still trading in rubles . . . With the emergence of Alaska in 1968 as the new resource giant of North America, the long uphill battle for political and economic sovereignty seemed to be at an end. Announcement of the Prudhoe Bay discovery electrified our State and Nation. . . . Alaska and her people had a brilliant future . . .

Our Nation's growing dependency on foreign crude would be alleviated. Prudhoe Bay could change all of this. It was the first dramatic realization (ten years after Statehood was signed) of Congress' intent that the disposition of State lands would create a revenue base for State Government Prudhoe Bay seemed to fulfill this promise beyond anyone's expectations, since in production it would yield $200–$400 million annually to State Government (State budgets in the first decade of Statehood average $100–$150 million annually); furthermore, in September, 1969, the State sold off previously unsold Prudhoe Bay tracts for almost a billion dollars.

Alaska entered the seventies with the promise of Statehood seemingly fulfilled . . . The prospect of large recurring revenues (upon completion of the pipeline) to provide long-overdue services, and the preservation of our unique way of life seemed a reality. Indeed Alaska looked ready to take her position as a proud and self-sufficient member of the union.

On the premise that pipeline construction would soon begin, the State moved ahead to program and provide for her citizens critical services that are taken for granted in other states. . . . In addition, some of the most creative and innovative governmental programs enacted anywhere were brought into being. Alaska developed a revenue-sharing program, passed back benefits of resource wealth to local governments and local taxpayers . . . This at a time when revenue-sharing was just on the drawing boards in other states and on the federal level. Our school foundation program assumed a good share of the educational burden in the State, leaving increased control at the local level, and permitting municipalities to turn their attention to other pressing needs of local concern. In 1970 and 1971, Alaska moved aggressively to solve the critical problems that had faced her in the past . . . Indeed, it was a confirmation of Congress' belief that mineral wealth would provide for Alaska the revenue base to achieve true Economic Statehood.

In anticipation of a brilliant future and the orderly economic, environmental planning that would go into the construction of the pipeline, Alaska accelerated its expenditures and initiated long, overdue programs. State budget planners projected that by the mid or late 1970's, Prudhoe Bay oil would be on stream and revenues would begin to flow into the State treasury. The revenues from the Nine Hundred Million Dollar Lease sale would tie us over until the pipeline became a reality. This appeared to be a reasonable assumption. However, Alaska and her citizens were to soon learn that these are not reasonable times. National conservation groups moved to block construction of the pipeline using the 1969 National Environmental Protection Act as the tool.

An injunction against the Interior Department granting a permit was issued, and the long delay began . . . one year stretched into two years; to three years . . . we were frustrated, but then heartened, when after two years in court the Federal District Court in Washington returned a ruling in our favor. The Conservationists appealed the case, and after a six month wait, the promise of Statehood has again been delayed. The Appeals Court, in rendering a decision, has planted a legal minefield around the pipeline that could take a considerable length of time to resolve. They failed to consider the merits of the NEPA case, the main issue at stake, and ruled that a technical violation of the 1920 Mineral Leasing Act would have to be amended in Congress. The courts must address themselves to the initial environmental issues that first delayed issuance of the permit. Failure to do this could throw the entire matter before Congress which could well result in the pipeline being caught up in the environmental emotionalism that is currently very much a part of the national scene.

The chips are down . . . and the issue at stake is more than the construction of a pipeline, the issue at hand is whether or not the sovereign state of Alaska shall have the right to seek her own destiny. Influential pressure groups and the friends in Congress would say no, but Alaska has prevailed before . . . and will prevail again.

CANADIAN ALTERNATIVE

At this point, let me touch on the talk of a Canadian alternative route, which conservationists and some of their friends in Congress say would be "environmentally" more acceptable than the presently-planned Alaska route. To date, hundreds of thousands of taxpayers' dollars have been spent on studying the environmental impact of the Trans-Alaska Pipeline. No project in engineering history has been given more thorough scrutiny . . . yet, there are those in Congress who, with a stroke of the pen, would make this a reality. The Canadian alternative to the Alaska pipeline is a myth. It has no basis of economic or environmental concern . . . it is not an alternative . . . it does not exist as an alternative . . . it is a smoke screen generated by certain self-serving groups to halt the Alaska pipeline in its entirety. The national need for low sulphur Alaska crude is already apparent. The spector of increased reliance on foreign nations for this country's energies needs is hanging over our head like the sword of Damocles . . . the Canadian route as an alternative is not practical, in the best national interest of the United States, Alaska or the environment. To attempt to proceed in this direction with no basis of fact makes as much sense as sending a man to the moon in a toy rocket.

What is happening today, Ladies and Gentlemen, is that the intent of the Congress of the United States in granting Statehood to Alaska is being circumvented by organized groups. Some of them are well meaning . . . but view Alaska from afar. Others disguised as concerned environmentalists, are 1973 versions of the economic royalists that Alaska has come to know only too well . . . it is time their selfish motives were exposed nationally for what they are.

It is a fitting and proper argument that Alaska should be spared the Hap-hazard development that has plagued other parts of America. Looking at the sprawling suburbs, and teeming ghettos that exist in far too many areas in our sister states to the south, it makes sense that Alaska continues to be one of the great scenic areas of our country . . . this is a worthy goal and Alaskans are the first to recognize it. Ironically, the Alaska Pipeline could well be the very key to preservation and rational environmental planning in Alaska. Before Prudhoe Bay, Alaska had virtually no stable economic base. The short-term project was upper most in people's minds . . . spot development was the rule rather than the exception. The development of any kind of economic activity was desperately needed.

There was little thought for planning . . . because there was little money for it . . . the same pattern of casual, unplanned, sporadic and haphazard development that took place in other areas, took place in Alaska through the sixties, because of Alaska's vastness, it was almost unnoticed. Those of us who have lived in Alaska for the past ten years or longer have vocally noticed this encroachment on our scenic beauty and environment. Had Prudhoe Bay not been discovered, and that trend continued, Alaska could have in the name of short-ranged economic development followed the same path taken by other states, with equally dismal results . . . however, with the advent of the promise of the North Slope, our forty-ninth state has been given the chance to break that pattern, to plan our future, to create new methods in developing a land that can recognize the need for harmony between man and environment.

We have the time, opportunity and will to make Alaska a living example for the rest of the world. This cannot be accomplished by building a fence around the "Great Land" and cringing from the future because of the mistakes of the past. It can only be done by meeting the challenge head on. On the other end of the axis of America, our sister state, Florida, saw man on the moon because an entire nation wanted it to happen. Alaska can be the launching pad for an all out effort to reclaim America's environment. We can be a living laboratory where problems of the environment can be solved and not just talked about. Engineering, atmospheric, land and water problems solved here can be of enormous benefit to the rest of our Nation, indeed, to the rest of the world.

Alvin Toffler in his recent best seller "Future Shock" put it rather aptly . . . "In dividing the last 50,000 years of man's existence in 62 year life spans, he stated that the 800th lifetime (in which we are now living. . . .) "marks a sharp break with all past human experience, because during this lifetime man's relationship to resources has reversed itself . . . the central stupendous truth about developed economies today is that they can have—in anything but the shortest run—the kind and scale of resources they decide to

have . . . it is no longer resources that limit decisions . . . it is the decision that makes the resources."

In the 801st lifetime, man will harness the energy of the solar system for his needs . . . nuclear power . . . geothermal power . . . indeed, the further harnessing of the energy of the winds and tides for mankind's needs will become areas of improving technological know-how. However, to "seek a newer world", an "energy bridge" to man's future we cannot cringe from the future because of mistakes of the past . . . the high velocity of change which man is undergoing in the 800th lifetime can be traced to many factors. Population growth, urbanization, the shifting proportions of young and old . . . all play their part . . . yet, technological advance is clearly a critical part of the network of causes: Indeed, it may be the catalyst that activates the entire network . . . We cannot and must not turn off the switch of technological progress. Only romantic fools babble about returning to a "state of nature". A state of nature is one in which infants shrivel and die for lack of elementary medical care, in which malnutrition stultifies the brain . . . to turn our back on technology would be not only stupid but immoral . . . to deliberately turn back the clock would be to condemn billions to enforced and permanent misery at precisely the moment in history when their liberation is becoming possible. We clearly need more not less technology . . . at the same time, it is undeniably true that as a nation we frequently apply new technology stupidly and selfishly . . . in our haste to milk technology for immediate economic advantage, we have turned our environment into a physical and social tinderbox . . . however, this problem will not be solved by taking shelter in the eye of the ecological hurricane . . . the winds of tomorrow and our responsibilities to one hundred million more Americans by the year 2000 are upon us.

To say that there is not an energy crisis in our country today, and there are many who do, is like standing in the middle of a railroad track and saying you are safe because a train speeding at you at a rate of a hundred miles an hour has not yet hit you. Whether it be a crisis of reserves, distribution, refining capability international politics, or what have you, America is going to need Alaska's energy in the next five years . . . and the clock is rapidly running out of the time to bring this oil to market to meet our sister states' needs. Believe you me, we understand what an energy outage means in Alaska—whether it be factory or home.

Combining rational intelligence with all the imagination we can command, let us project ourselves forcefully into the future. In doing so, let us not fear occasional error . . . the imagination is only free when fear of error is temporarily laid aside . . . in thinking about the future, it is better to err on the side of daring than the side of caution.

In Alaska, we often refer to ourselves as a "nation state" we are proud and love our beautiful state . . . environment . . . both critically harsh . . . and magnificently beautiful is more than a word to us, it is a way of life. However, we are not ready to build a fence around ourselves and call ourselves the "Last Great Frontier" while the rest of our sister states struggle with problems that we could help to solve . . . indeed most Alaskans look upon themselves as citizens of "A new frontier" . . . a "new frontier" for the creation of thoughtful plans that will result in a swing towards recognition of the need for earth and man in harmony. Let us look to the northern star for the promise of tomorrow rather than preoccupying ourselves in hopeless despair with the fears of today . . . Florida, our sister state on the other end of America saw man on the moon from her shores . . . Alaska could be the "new frontier" from which our nation launched an all-out effort to reclaim our environment. Let our generation, young and old, conservationists and men of industry alike act with rather than react from fear . . . the promise of Alaska can be the promise of America . . . be happy and thank you.

## PHYSICAL AND MENTAL HEALTH PROBLEMS FACING OUR EX-POW'S

Mr. SCHWEIKER. Mr. President, on March 21, 1973, I introduced S. 1424, a bill which, among other things, provides for full health care for all former POW's and their dependents for as long as it is needed. Today's Washington Post contains an article pointing out some of the serious physical and mental health problems found among the 51 POW's processed through March Air Force Base in California: Only six of these men were considered to be in good health.

Dr. Gary Trunk is quoted as saying that some of these men may need psychiatric treatment for the rest of their lives, as a result of the stress of their long imprisonment, and the serious personal problems some have encountered upon their return home.

His statement graphically points up the need for the enactment of my bill. As I stated when I introduced this measure, we learned following the Korean conflict that many physical and psychological ailments faced by former POW's may not manifest themselves until many years after a POW's release. That is why it is so important to extend medical benefits for as long as they are needed by POW's and their families.

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

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

SOME POW'S FOUND TO BE IN POOR HEALTH

RIVERSIDE, CALIF., May 8.—Of the 51 former prisoners of war processed through March Air Force Base, only six could be considered in good health and some may need psychiatric treatment for the rest of their lives, according to the facility's chief medical examiner.

Practically all the men had parasitic worms—some up to a foot long—chronic diarrhea, skin infections, an asthma-like lung condition and malnutrition, said Dr. Gary Trunk.

In a talk to the Riverside County Medical Association. Trunk said a few of the men may require psychiatric treatment for the rest of their lives because of the stress of imprisonment followed by personal problems on their return home.

The average weight loss during imprisonment was 80 pounds, he said. Before 1969, the POWs existed on about 700 calories a day, less than a fifth of the average daily requirement, he said. In that year rations were improved to give the prisoners about 1,200 calories a day and vitamin supplements, he said.

## A COMMUNITY-BASED WELFARE SYSTEM

Mr. HATFIELD. Mr. President, no one is satisfied with our present welfare system. It is degrading, dehumanizing, vastly expensive, and administratively ponderous. One of the great challenges of domestic policy today is to design a system to provide for the needs of the less fortunate in a way that strengthens their sense of identity and self-respect, while at the same time strengthening the local community in which they live.

In my testimony before the Republican Platform Committee last August, Mr. President, I presented a proposal for neighborhood government, on a scale comprehensive to our citizens, to preserve the values of liberty and community upon which our country was founded. In the course of that statement I recommended pilot projects on neighborhood welfare reform corporations, working to reintegrate the needy into genuine human communities.

Another development of that same thought has been undertaken by Mr. John McClaughry. To promote a greater dialog on the promise of the community based approach to problem solving, I ask unanimous consent that Mr. McClaughry's memorandum be printed in the RECORD.

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

A COMMUNITY-BASED WELFARE SYSTEM

(By John McClaughry)

The existing system of public welfare is under attack from all quarters. Welfare recipients and the President of the United States alike have recognized its degrading effects. Instead of encouraging human beings to make a productive contribution to their communities, and in so doing achieve a sense of worth and dignity, the present system is based on an isolated, fragmented, alienated view of man that is destructive for the individual and self-defeating for society.

The idea of the community-based welfare system is based on a premise ably stated by U.S. Senator Mark. O. Hatfield (R-Oregon) in his presentation to the Republican Platform Committee in August, 1972:

"The individual can only develop his full potential as a human being through community. This concept dates back to the twelve tribes of Israel. The ancients realized that without a sense of community and real citizen participation in the public life of the community, the individual and the family structure deteriorates . . . The need for community is instinctual. Thwarting this instinct leads to the pathological qualities encountered today, particularly the sense of rootlessness. Unless individuals are able to relate together and act publicly for the well being of the community, the individual himself will be lost."

With the virtual abandonment of President Nixon's Family Assistance Plan for welfare reform in 1972, the time is right for a new proposal, based not on manipulating human beings through a vast complex of bureaucrats, sliding scales, certifications and percentages, but on re-integrating each needy human being into a genuine human community where he can make a contribution in proportion to his ability.

The Community Based Welfare System is a real alternative to both the present discredited welfare system and the Family Assistance Plan. Its goals are to give the needy a real opportunity to achieve identity and self-respect, as well as a decent standard of living; to strengthen the work ethic of contribution in return for reward; to create new service and income opportunities; to eliminate the uncaring and clumsy hand of the welfare bureaucracy; and to help produce a stronger human community in which each individual citizen can feel he has a place.

The Community Based Welfare System would decentralize welfare administration to the community and neighborhood level. It would operate through a Community Improvement Corporation, which in many cases

would be a nonprofit affiliate of an existing community development corporation (CDC). Initially a local CDC or similar group would sponsor the formation of a CIC, but once operating the control would pass to the CIC's shareholders—the persons entitled to receive welfare assistance in that neighborhood. Participation by welfare recipients would be completely voluntary.

The CIC would contract with the public welfare department for the total support of and provision of social services to its welfare members, initially in units of no more than five caseloads (375 family units). Under this contract, the public welfare department would periodically pay to the CIC a sum equal to the total assistance and administrative costs of the caseloads contracted for during that period.

Each eligible welfare recipient in the community or neighborhood would be entitled to become a shareholder of the CIC and also an employee of the CIC at a salary equal to his lawful welfare entitlement. The CIC's Board would hire such administrative and social service staff persons as they found desirable and necessary out of the contract funds available. The CIC might employ persons now employed by the welfare bureaucracy, or other persons, as they saw fit, or they could contract with a private firm for those services on the open market.

From the beginning the principle should be firmly established that child-rearing and caring for the sick and aged are highly valued and important types of work for which the basic salary is paid. Other types of work would include child care services, neighborhood cleanup, snow removal, neighborhood park and beautification projects, block club organization, school attendance and tutoring projects, and service in health care, drug abuse prevention, and crime patrol work.

Aged and handicapped persons would be offered duties conforming to their interests and capacities. Some might answer telephones or visit the sick, some might be responsible for reporting suspicious activities to the police, and some might merely sit on park benches to smile at passers-by and watch children at play. It is important that all participants be encouraged to regard themselves as employees performing useful and valued work, since most welfare recipients still retain the work ethic and are alienated and unhappy when denied the opportunity to make some worthwhile contribution.

If participants received only the base salary equal to their previous welfare entitlement, the only argument for the CIC system would be the removal of the psychological stigma associated with welfare, a strengthening of local community life, and the empowerment of participants to choose how the social services portion of the budget shall be spent. The CIC would, however, offer an additional incentive.

In any community there are many services for which there is some demand, but for which no public or private employer can afford to hire additional personnel at prevailing wage rates. Since all CIC employees already have a guaranteed base salary, the CIC could contract to provide the services of any of its employees desiring a supplementary income, and charge the other party (the local school, grocery store, parks department, etc.) only the differential rate. Thus a CDC-owned grocery in the neighborhood might employ a disabled young adult to provide security services the store could otherwise not afford, or a neighbor might pay a small sum for child care. There would, of course, have to be some limitations on the amount of supplementary income that could be so earned, and also safeguards to assure that CIC workers did not replace regular employees who would otherwise have had to be hired. Beyond some level supplementary incomes would have to be divided between the worker and the CIC, if the worker is to remain eligible for his full base salary.

The Community Based Welfare System would constitute a first step toward breaking the social isolation of individuals, in restoring their sense of personal worth, in generating personal motivation to overcome obstacles, and in re-integrating them into the larger community social structure as contributing citizens. It would reinforce the work ethic and decentralize the administration of necessary government services, while removing the degrading stigma of welfare dependency. It would not enlarge the current welfare budget.

It would give the poor a new sense of control over their destinies, instead of perpetuating their subjection to an often callous and demeaning welfare bureaucracy. It would introduce free market elements into the provision of social services, where the clients choose the vendor instead of taking what the government dictates. It would open opportunities for the supplementation of incomes through additional work, and make new services available which public and private employers cannot now afford. It would strengthen the sense of community and create a new interest in participation in community improvement by all residents.

Where there is an existing community development corporation, initiation of a CIC would be relatively simple, including fiscal accountability through established procedures. The system will work regardless of the benefit levels prescribed by state or federal legislation.

The Community Based Welfare System must be seen not as an isolated administrative technique, but as one of the building blocks of a new and decentralized America—a land where the voice of each individual can once again be heard when the decisions affecting his life are made; where power is exercised by public servants, businessmen, labor leaders, educators, and religious leaders who are close to the people and accountable to them directly; where each local community can foster the conditions without which individual liberty is an empty dream. It is time now to begin to re-create that kind of America.

(John McClaughry was a special assistant to Richard M. Nixon in his 1968 campaign and transition period and has just completed four years in the Vermont House of Representatives. He is the principal author of *Expanded Ownership*, a 1972 Sabre Foundation study suggesting ways of creating a more widespread distribution of private property ownership. His address is Box 94, Lyndonville, Vermont, 05851. The author wishes to thank Shimon Gottschalk of the Florence Heller School, Brandeis University, for his very important contribution to the development of this memorandum.)

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## PUBLIC FINANCING OF CAMPAIGNS: A DETERRENT TO CORRUPTION

Mr. ABOUREZK. Mr. President, I ask unanimous consent that Mr. Clayton Fritchey's very perceptive article "Public Financing of Campaigns: A Deterrent to Corruption," be printed in the RECORD at the conclusion of my brief remarks.

Mr. Fritchey's point is as simple as it is valid. He argues that the integrity of our political system has hit rock bottom. He points to the corrupting influence of big money as the root cause of our low standing in the public eye. And he recommends immediate enactment of a system of public financing to restore both the reality and the appearance of integrity in our system.

I could not agree more. For the incredible bargain price of about 50 cents per person Americans can buy the assurance that big private money will no longer be able to corrupt politicians. If just one special interest tax law could be defeated by the enactment of public financing legislation, that legislation would have paid for itself many times over.

As an investment in integrity, as an investment in public confidence, as an indispensable investment in a government that can examine legislation on its merits instead of the size of the campaign contributions its sponsors may be able to make, I strongly urge speedy consideration of public financing legislation by this body.

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

PUBLIC FINANCING OF CAMPAIGNS: A DETERRENT TO CORRUPTION

(By Clayton Fritchey)

Now is the time for all good men, Democrats and Republicans alike, to come to the aid of their parties—by enacting a campaign financing bill that will make it impossible for there ever to be another Watergate case.

Now, while the scandal of Mr. Nixon's multimillion dollar slush fund is fresh and vivid in the public eye, it is the right moment for the reformers in Congress to move. Who, at this point, would dare to vote against a true cleanup of campaign financing? Not even Mr. Nixon would dare veto it.

Several seemingly worthwhile steps were taken last year by Congress to establish stronger barriers against the corruption and subversion of the electoral process, but, as it is all too horribly plain to see, the Nixon forces had no difficulty in circumventing and debasing the Federal Election Campaign Act passed with such high hopes in 1971.

The lesson of the great expose now going on is that the new act simply doesn't work in practice, even though a special agency was created to implement it. This agency and the General Accounting Office have performed conscientiously.

They have uncovered numerous serious violations, and referred them to the Justice Department for prosecution. But what good is this if Justice, being Mr. Nixon's creature, refuses, as it has, to prosecute vigorously? All it has done so far is accuse the Nixon finance committee of a few derelictions, but no individuals have been charged or prosecuted. The administration has made a travesty of the reform act

Although the statute was supposed to make everything aboveboard, the Nixon team succeeded in creating a record secret slush fund, exceeding $10 million, the full ramifications of of which are still not known.

We do know, however, that all kinds of vested and predatory interests were involved. We know the money was "laundered" by slight-of-hand international transfers, by moving it around in suitcases containing hundreds of thousands of dollars in $100 bills, by illegally failing to report it and by using the hidden cash to finance Watergate and other criminal actions.

As the American people can now see, the end of this path is the utter degradation of their government. There is only one certain way of stopping it, and that is for the taxpayers, through outright congressional appropriations, to take over the privilege (the word is used advisedly) of financing all candidates for President, Senate and House. In the process, private contributions should be outlawed.

The cost to the public would be about 50

cents per person. Surely the country is worth that. Every public opinion poll shows how much Americans are concerned over the present way of financing political campaigns. In the final analysis, what is the distinction between a campaign contribution and a bribe? Even the courts have trouble defining the difference.

Year after year, Congress holds hearings on campaign reforms, but in the end it always shrinks from the ultimate step of putting the responsibility squarely on the taxpayers, where it belongs. Last year, it experimented with what looked like a promising alternative—the $1 checkoff plan—but that, too, like the new anticorruption law, has been a disappointment. There is no more realistic politician on Capitol Hill than Sen. Russell Long (D-La), chairman of the Senate Finance Committee. Foreseeing the loopholes in the 1971 reform act, he proposed public financing of last year's presidential race by letting Americans check off $1 on their income taxes to be used for campaign expenses.

It was estimated that this would provide $20 million each for the major presidential candidates, and substantial sums for minority ones.

This was not acceptable to Mr. Nixon, who rightly figured he could raise two or three times that amount from his wealthy backers.

The bill was finally passed only by postponing its effective date to 1976. Since then, Mr. Nixon's Internal Revenue Service has sabotaged the plan by excluding the checkoff from the regular income-tax form, and making the separate form hard to get. The upshot is that the checkoff is not working.

So it's time for Congress to go back to the drawing board. Complicated checkoffs and tax credits are not going to do the job. The answer is simple, straightforward appropriation of whatever amount is needed to finance federal campaigns. At the maximum, this would be less than one-tenth of 1 per cent of what Vietnam cost.

## THE PRESIDENT'S ENERGY MESSAGE

Mr. BEALL. Mr. President, increasingly the people of our Nation are realizing that this country is facing a serious and growing "energy crisis." Fuel shortages are appearing almost daily throughout all parts of the land, and indications point to the fact that, unless action is taken now by all Americans, this problem is going to get worse.

I believe that the President's recent energy message marks a significant step in dealing with both the short- and long-term aspects of this situation. I hope that these initiatives will quickly be followed by other proposals from Government and the private sector alike, and that we can develop, on a nationwide scale, a massive effort to conserve our present energy and responsibly find new sources for our demands.

Mr. William O. Doub, a distinguished and most capable Commissioner of the U.S. Atomic Energy Commission, recently spoke to the Federal Power Bar Association regarding this whole matter. Although Mr. Doub's address dealt with the challenge to the legal profession of the President's energy message, I believe that the points he raises are most important to many other Americans, and I ask unanimous consent that the text of his remarks be printed in the RECORD, for the benefit of my colleagues and other interested parties.

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

THE PRESIDENT'S ENERGY MESSAGE: A CHALLENGE TO THE LEGAL PROFESSION

(By William O. Doub)

To the public-at-large, the energy industries, and the federal and state agencies mandated to regulate them, this is a critical time. The energy policies pursued by the nation over the past three decades have culminated in a clash between energy and the environment. Today, we recognize the seriousness of this clash, and know that a creative accommodation will have to follow if we are to avert damage both to our economy and to our environment.

In this regard, President Nixon's recent Energy Message is a milestone in the continuing efforts to resolve this problem. It is an explicit recognition of the need for prompt action and an end to empty rhetoric. Some of the President's recommendations will no doubt lead to further debate. But, given the positive direction of his recommendations, this debate will surely be constructive.

The agenda for your conference today reflects the tone of an important part of the current debate: "Recommended Solutions to Natural Gas and Electric Power Shortages," and "Development of a National Energy Policy." Needless to say, these topics have been the subject of intense discussion for the past few years. Yet, they remain crucial and timely—particularly, for an assemblage, such as this, of attorneys and counselors to the energy industries.

The issues you have before you today have an added dimension for the Bar, for they are placing new and greater stresses on our traditional regulatory institutions to cope with exceptionally complex technological and quality-of-life problems. As the nation grapples more intensely with the inter-workings and implications of the energy-environment issue, I believe that there is a correlative duty on members of the Bar collectively to evaluate the relevance and capacity of today's institutions to handle these problems effectively.

The threshold issue is whether these problems—particularly as they relate to administrative procedures—can be expeditiously and adequately resolved by the adversary process—by the procedures and rules of practice which have proved successful to the different kinds of forums in the judicial system. Lately, much has been said about the duplication inherent in today's regulatory process: regulated companies must sometimes obtain dozens of permits before they are allowed to construct proposed facilities. Is the ultimate payoff of this duplication a benefit to the public-at-large?

There is also the matter of regulatory delays—some the responsibility of the government agencies themselves, others caused by the ineffective response of applicants and other participants to new legal and public policy requirements. Is the best answer for the nation—for the public and the regulated companies—only to initiate a concerted drive to improve the overall efficiency of existing administrative processes? Or is it also to initiate a reevaluation of the entire adversary system of regulation, and its many layers of duplication and inconsistencies, with a view toward creating a more responsive, streamlined regulatory system? With new energy policies currently being proposed, I believe that now is surely the time to undertake such a reevaluation. Indeed, this assemblage may wish to consider whether one of the results of this conference should be to set the necessary wheels in motion toward this end.

The experience of the AEC is a case in point. Under the Atomic Energy Act, the AEC's licensing process embraces two hearings—one for a construction permit, the other for an operating license. We are striving, of course, to implement these statutory requirements as efficiently as possible. Yet, it is clear that the events of the last few years have entirely changed the nature of the AEC's regulatory arena: today we are bound by law to consider complex environmental and anti-trust issues in each of our proceedings. Clearly, this wasn't contemplated by Congress when the Atomic Energy Act was passed nearly 20 years ago. The result—to borrow a currently fashionable term—is that we have been forced to "backfit" the statutory scheme of regulation with new issues that may perhaps be better resolved by a different kind of regulatory forum.

The AEC is not alone in this regard. Other federal departments, the FPC, and state regulatory agencies are facing similar problems. Are these agencies of government endowed with the *kind of* authority and capability to deal with complex technological and quality-of-life issues with the same effectiveness that they were able to deal with the specific narrow issues that engendered their establishment several decades ago? This, I believe, is a question most appropriately addressed to a Bar Association group such as yours, and one which I would hope you will play a central and aggressive role in resolving.

What would happen, on the other hand, if the situation created by decades-old policies continues to prevail in the future—if we do not bring about some kind of change in the nature and organization of our regulatory system? In my judgment, the problems we have recently encountered would deepen, for we are on a course toward bringing even more difficult qualitative issues into the regulatory process.

Historically, regulatory agencies have been most effective in resolving distinct issues of fact and policy—for example, choosing among alternative ratemaking techniques, determining alternatives to improve quality of utility service, and evaluating applicants competing to serve a growing market area. I believe that the environmental and consumer movements that gained momentum during the 1960s represent important qualitative issues that hold the potential to seriously entangle existing regulatory processes. In my opinion, the nation has permanently entered a new era of concern for qualitative values. It is not a fad. If we are *not* swift to respond with additional forward-looking institutional arrangements and procedures which reflect quality-of-life considerations, there could very well be a substantial reduction in the effectiveness of regulatory agencies at all levels of government.

One course of action is always available—that is to fight any efforts to change the existing scheme of regulation. Today, this course would be folly. The recent past has identified serious issues of common concern to all segments of the public and private sectors. These issues have exposed not only differences among the many adversaries, but a unique opportunity to reconcile these differences on the common ground that there is a need for constructive change. Each force today knows that it is interrelated with the other, and that the future of each to some degree will be affected by the other. Indeed, there have been shrill voices from both sides in the past. But now the time is ripe for both to roll up their sleeves in pursuit of common goals that will vigorously serve the overall public interest over the long-term.

What would an agenda-for-action include to serve these ends? Most important, I believe, it should include a measure of institutional reform in the regulatory process. Are there better ways to resolve qualitative issues—for example, land use and aesthetic questions—than by today's adversarial regulatory hearings? Can we formulate better groundrules to govern our hearing procedures for the benefit of all parties? I am re-

ferring not only to individual landowners and citizens groups, but to regulated and other companies which have sometimes found themselves at sensitive points of leverage and "ratcheting" under existing procedures.

These questions are significant for the energy industries, because energy is undergoing a revolutionary change in technology and public attitudes. High energy physics is now a basic part of the electric power industry. Liquefaction of natural gas and international transportation of LNG have become rather commonplace. Coal gasification and oil shale technology are similarly calling upon new kinds of processes. But, throughout these changes in production and transmission methods, it does not appear that sufficient attention is being devoted to the legal and institutional processes designed to regulate them. Indeed, it appears that sufficient effort is not being made to determine what substantive regulatory principles are necessary to achieve the national goals of the President's recent Energy Message.

The newspapers are covered each week with articles on the energy crisis. The public is obviously aware of the serious shortages experienced by much of the country last winter and the preceding years. Already some government and industry spokesmen are predicting even tighter energy supplies in the immediate future. My concern is that we must not permit this tough situation to force us into precipitous short-term regulatory actions that will only compound the problem a decade or more from now. The President has charted a course for the future, and it is against this objective that we should weigh the merits of our specific actions.

In my view, it is time to get down to basics—to examine first principles of regulation and determine whether they are now being served by relevant institutions and procedures. Does the existing scheme of regulation best serve the overall public interest and offer the essential flexibility to deal fairly with changing social values? This is the kind of question that I believe must thoroughly be considered today.

There is another issue that deserves the priority attention of a Bar Association group such as yours: energy conservation. This is an issue which has been simmering for the past few years, but one which properly has now become intense. All of us know that energy is wasted—too much horsepower, overcooling, poor construction, and so on. Much of today's waste, however, is the product of a simple lack of attention in the past. Energy has been abundant, so why should any of us live by articles of restraint? Today the tables are turned. But we are still not moving fast enough to eliminate waste. One reason is that it is not clear how we should specifically proceed. What new regulatory policies and procedures are desirable? What incentives should be promulgated? President Nixon's Energy Message points the way to some constructive solutions. It is up to all of us now to move ahead.

I believe these questions are well-suited to the analytical skills and perspective shared by members of the Bar. Indeed, at the American Bar Association annual meeting last year, I had the opportunity to address some related matters concerning my views on the collective responsibility of members of the Bar. I believe that overriding public interest issues—such as the desirability for change in existing regulatory processes—are an important part of an attorney's proper concern. I would hope that these questions will become the subject of your continuing concern during the months ahead.

## STOP INFLATION—BALANCE THE BUDGET

Mr. HARTKE. Mr. President, considering the administration's budget proposal calling for such a great deficit at a time when any more rise in inflation would be critical, I believe it is my duty to offer constructive criticism.

Mr. President, I therefore, ask unanimous consent to have the following statement concerned with stopping inflation and balancing the budget, made by our former colleague, Representative Byron Johnson who was also a member of the Fiscal Division of the U.S. Bureau of the Budget during World War II, the office which helped design the economic stabilization program for World War II, printed in the RECORD.

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

STOP INFLATION—BALANCE THE BUDGET

President Nixon's proposal for a $13 billion deficit next year is unacceptable. It promotes more inflation. Now is the time to balance the bduget. Either cut expenditures or increase tax revenues. The war is over. It is time to stop programming inflation. It is time to put the economy on a peace-time basis. There is no "emergency" justifying such high military outlays.

Military budgets have been based on planning for two-and-a-half major wars simultaneously. There is no basis for fearing we face at the same time a war with China, a war with the USSR, and a war with some smaller third power. Congress can balance the budget by recognizing the change in international relations, and the drop in our international security requirements.

The military budget can now be cut sharply. We can pay for the increased domestic civilian needs, we can re-order priorities, and still balance the budget without a tax increase.

Inflation is likely to continue as long as there are futher federal deficits. A continuing increase in the public debt will be treated as a justification for continued inflation. This is easy to do when the President virtually ends wage and price controls. But with a balanced budget, you can demand a generally stable level of prices. The Federal Reserve System can keep the growth of the money supply in reasonable balance with the demands of national economic growth. Thus we can have expansion without inflation. But you must balance the budget.

Congress ought now to make the tax system more equitable. This is the time for fundamental tax reform. It is hard to get tax reform as part of a tax increase. It would be easier to get tax reform as part of a further tax cut. But only with still further cuts in military spending, and further true growth of the economy, will we be able to afford a new tax cut. Congress ought to review critically our defense requirements into the future. Surely international peace-making and international peace-keeping will be far less costly to Americans than trying again to be the self-appointed policemen to any part of the world. Further tax cuts are thus possible.

With a balanced budget, an effective price stabilization program is again possible. The wage-price guideposts of a decade ago were good economics. They called for prices to be generally stable, and for wage increases to reflect true increases in productivity. This remains sound economics. The end of wartime pressure permits a return to this position.

With a balanced budget and stable prices, the U.S. balance of payments difficulties would ease. U.S. goods would be increasingly competitive in world markets.

With stable prices, and with the Federal Government no longer bidding for scarce savings, interest rates should fall. Better than the recent subsidy of high interest rates for the housing expense of the few poor who were accepted, would be to cut the costs of housing for every American, by bringing interest rates down. When interest rates no longer are based on anticipations of further inflation, interest rates will fall. Every American will benefit. When more families can buy housing at interest rates they can afford, far fewer families will need any subsidy to get decent housing.

In turn, more people will be employed building more housing, and more persons will be enjoying decent housing. This will help assure full employment at productive jobs, rather than the waste of manpower and materiel in the production of military hardware which (as Pres. Kennedy said) "if we ever use it, will have failed of its purpose."

The signatures at Paris at long last make it possible to adopt such action. Some have opposed tax increases needed in the past because they opposed the war. No longer need any member vote bad economics because it appears to be good politics.

Good economics is good politics. But even more important: good economics is good statesmanship and true statecraft. Balance the Budget. End Inflation. Help cut interest rates. Help insure domestic tranquility. Peace.

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## MONEY FOR HIGHWAYS AND MASS TRANSIT

Mr. HARTKE. Mr. President, the Senate recently debated the propriety of using highway trust funds to finance mass transit projects. No one can doubt the need for mass transit in and around our cities. We are being choked to death by cars, and it does not take a perceptive person to realize that one of the answers to this dilemma is mass transit.

The issue, then, is not whether we need more mass transit, but how that mass transit will be funded. There are many areas of this country whose transportation needs will not be met by mass transit. Highways are not outmoded means of getting people from one place to another. They are absolutely necessary, for example, to move people from rural to urban areas.

Mr. President, an article on this subject recently appeared in the March issue of the International Operating Engineer. I ask unanimous consent that it be printed at this point in the RECORD.

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

INTERSTATE HIGHWAYS AND MASS TRANSIT: WE NEED BOTH

American overland transportation needs continue to grow, yet highway construction is coming to a halt and a roadblock is in place against new financing for mass transit projects.

For the first time since 1956, and only the second time since 1916, Congress failed to pass a Federal highway funding bill. The proposed measure died in the House of Representatives last October and, although it is

a high priority issue, will probably not be again considered by the full Congress until late this spring.

As a result, six states had no Federal matching highway funds by the end of 1972. By the end of this month, at least 18 states will be unable to award any new highway work. This cutback in highway construction is beginning to have severe adverse effects on thousands of cities, counties and municipalities, not just in the loss of maintenance and new construction, but in accelerating unemployment and the side effects of that unemployment.

At issue in Congress is the use of designated Federal funds derived from highway user taxes for mass transit projects. When legislators could not reach agreement in 1972, action was shelved for consideration this year by the new 93rd Congress.

Opposing factions in the Senate have already had their first confrontation. In round one, rail mass-transit boosters lost a preliminary bid to tap the highway trust fund, although they predict victory by the end of this year.

The Senate Public Works Committee rejected, eight to six, a proposal by Senators Edmund Muskie (D.-Maine) and Howard Baker (R.-Tenn.) to give city officials the option of using up to $800 million annually from the highway fund for rail and bus transit systems, as well as for roadways.

Action moves to the Senate floor this month, where some diversion of the fund is anticipated. The Senate will probably allow a diversion in urban areas, and add to the highway bill a lot of additional money from the Treasury's general revenues for rail and bus transit equipment purchases and operating expenses. The Nixon administration supports the use of both highway trust fund money and general revenue for mass transit equipment purchases, but not for a transit system's salaries and other operating expenses. Claude S. Brinegar, the new Secretary of Transportation, suggests that $1.1 billion from the highway fund be made available for urban mass transit projects in fiscal 1974.

The Senate Public Works Committee, having rejected the mass transit diversion, has approved for full Senate consideration a bill providing about $5.8 billion for highway projects in each of the next three years.

The 42,000-mile interstate system is about 80 percent finished, and much of the new funding would go toward bringing about its completion, now estimated in 1984.

The House, which last year blocked the highway trust fund raid, hasn't started work on this year's bill.

The failure to act last year is having serious reverberations at lower levels of government. Approximately $17 billion is spent each year by Federal, state and local governments on highway construction, modernization and maintenance. The Federal contribution is about one-fourth of this amount.

FUND SOURCE AND USES

Over half comes from state and local highway user tax revenues, including tolls, and the remainder, used primarily for local service roads and residential streets, is generated from other sources. The Federal share of almost all highway modernization and highway safety programs is financed through the highway trust fund in 1956 to provide a user-generated source of revenue for the Federal aid highway program. What is affected, however, is a high percentage of all these projects because they are constructed through matching funds through participating government agencies at all levels. When funding is withheld from one, others suffer.

The highway trust fund was established as a long-term commitment to build highways with taxes coming from those who use them, with construction on a "pay as you go" basis. The taxes earmarked to the trust fund include:

Motor fuel, four cents a gallon;

New trucks and trailers and certain buses, 10 percent on the manufacturer's wholesale price;

Highway vehicle tires and tubes, 10 cents a pound;

Heavy vehicle use, $3 per 1000 pounds annually on the total gross weight of vehicles rated at more than 26,000 gross weight;

Parts and accessories, 8 percent on maker's wholesale price of truck and bus parts and accessories;

Lubricating oil, six cents per gallon, if used for highway purposes.

HIGHWAY FUND "SURPLUS"

Most Americans and their representatives in Congress agree that we need both the highways and mass transit. The issue is over where the funds will come from. Those who urge use of highway funds (instead of or in addition to funding from the general fund) for mass transit point to a "huge surplus" in the highway coffers. On September 30, 1972, the cash balance was about $4.5 billion, but the Fund's obligations to the states for highway improvement work already in progress was $7.4 billion. Those familiar with the fund point out that it is like a checking account—although there may seem to be a surplus of funds, that money is already committed.

The following figures from a U.S. Treasury report show the Highway Trust Fund's estimated balance and obligational commitments through the end of its legal life, September 30, 1977.

[In billions of dollars]

| Estimate | Balance in the Fund | Liability for unpaid obligations | Balance less liability for unpaid obligations |
|---|---|---|---|
| 1972 | 4.5 | 7.8 | −3.3 |
| 1973 | 5.1 | 7.4 | −2.3 |
| 1974 | 6.1 | 8.3 | −2.2 |
| 1975 | 6.8 | 8.6 | −1.8 |
| 1976 | 7.6 | 8.7 | −1.1 |
| 1977 | 8.9 | 7.0 | 1.9 |
| 1978 | 1.3 | | 1.3 |

The interstate highway program, which has been behind schedule for some time, also has its critics. Some say that it has overly encouraged use of the automobile to the point of congestion, divided communities, and turned the landscape into "concrete jungles." As a matter of fact, the highway trust fund helps states build all highways—urban or rural—as well as farm-to-market roads, local rural roads, public lands highways, even relocation assistance, including the acquisition and rehabilitation of existing housing or construction of new housing which might be caused by roadbuilding.

There is also the cry that the government is spending all of the transportation dollar on highways and none on mass transit. That's not true.

Between 1965 and 1970, Federal obligations to mass transportation programs totaled about $1 billion. Since passage of 1970 legislation entitled "Urban Mass Transportation Act," spending has increased significantly. In fiscal 1971 and 1972, total obligations were $1 billion, and the Urban Transportation Administration expects to obligate another $1 billion to mass transit programs in fiscal 1973.

Distribution of mass transit funds is interesting. In the first seven years of Federal mass transit aid programs, about one in six projects included assistance for the public takeover of a local bus line. In all, more than 75 percent of the total funds obligated up to 1972 went to five states—California, Illinois, Massachusetts, New York and Pennsylvania—and more than 30 percent were directed to projects in the San Francisco and New York metropolitan areas.

BOTH SYSTEMS NEEDED

Organized labor joins with other groups pressing for full Federal funding of both the highway and mass transit projects, with immediate action to restore work on highway systems which have been halted due to Congress' failure to enact Highway Act funding amendments last year. A direct subsidy to mass transit projects may be the answer, although several proposals have been advanced. How much subsidy is required is something yet to be grappled with by the legislators. The Administration has taken the position that only capital costs should be covered, that is, construction and major equipment purchases, although the bill passed by the Senate last year provided for operating cost subsidy as well.

Operating Engineers, at our most recent convention, went on record as opposing any diversion of the Highway Trust Fund to non-highway expenditures. There is simply not enough money available from the highway fund to spend otherwise. The I.U.O.E. has supported, however, the funding of special bus lanes, fringe parking, and even the purchase of some buses, all of which pertain to highway usage. We are strongly opposed to the use of highway funds to operate transit systems or for the development of non-highway modes of transportation.

This stand in no way lessens our concern for the needs of mass transit nor detracts from our desire to see the development of new technology, but to pursue these mass transit goals there must be new money sources. It becomes increasingly clear that to pay for mass transit we must establish a new avenue of funding.

The AFL–CIO Executive Council has called upon Representative Wilbur Mills, Chairman of the House Ways and Means Committee, to hold hearings on the need for a new mass transit trust fund. Perhaps income for this fund could come from a nominal additional tax on gasoline or similar transportation related area.

Until such time as a new trust can be established, mass transit must be financed from general revenue funds. We must not tamper with highway funds already allocated to existing projects.

Admittedly, the source of funding for both mass transit and highway needs is very complex. But we need highways now. And we need mass transit to alleviate highway congestion and to provide new transportation alternatives in the future. Congress can and should provide the means to meet our commitments in this area. The American public should not be forced to choose one or the other; we must have both mass transit and our highways.

## WHOLESALE INDUSTRIAL PRICES

Mr. HUMPHREY. Mr. President, the alarming rise in wholesale industrial prices in the last few months is one of the gravest economic problems facing this country. Industrial prices have risen at an annual rate of nearly 15 percent in the last 3 months. Yesterday the Subcommittee on Consumer Economics of the Joint Economic Committee invited three distinguished experts to discuss this problem. Their testimony contains both analysis of the causes of this inflation and suggestions for strengthening our anti-inflation policies.

It is critical that the current rise in prices be halted. Otherwise the country will shortly find itself locked into a price-wage spiral which will make the 1969–71 experience look pale by comparison.

I invite all Members of Congress to study the valuable testimony presented to the Consumer Economics Subcommit-

tee yesterday and to join in urging the administration to take vigorous action to halt inflation. Congress has extended the broad price-wage control powers requested by the administration. Now it is up to the administration to utilize these powers in an effective manner.

I ask unanimous consent that the testimony of Walter Adams, professor of economics at Michigan State University; Robert F. Lanzilotti, dean of the College of Business Administration at the University of Florida; and Robert Nathan, of Robert Nathan Associates, before the Subcommittee on Consumer Economics of the Joint Economic Committee be printed in the RECORD, together with my own opening remarks at that hearing.

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

OPENING STATEMENT OF SENATOR HUBERT H. HUMPHREY

This morning the Subcommittee on Consumer Economics has invited three distinguished private economists to give us their perspective on prices of non-food commodities.

Several weeks ago, when we first began planning this hearing, we were aware that there was a severe problem of rapidly rising industrial prices. But we did not realize how severe. The wholesale price numbers which were released last Thursday brought the problem home with dramatic force. In the last three months, industrial prices have been rising at an annual rate of nearly 15 percent. That single statistic should serve to wake up the country to the problem that we face. Most of these recent price increases have not yet reached the consumer. But they will. In the months ahead the consumer faces the probability of sharp price increases for a wide variety of non-food commodities—clothing, appliances, furniture, fuel and many other basic items. And the poor consumer must accommodate these price increases in addition to the 8 percent price increase which has already taken place this year for food.

Wages have not been rising to keep pace with this inflation. Wage increases negotiated in the first quarter were smaller, on the average, than they were in 1972. The index of real hourly earnings has been falling steadily for the last three months.

Of course, the imbalance between prices and wages cannot continue. If prices keep going up, wages must also go up. Unless there is immediate effective action to interrupt the price-wage spiral—notice I put *prices* first there—unless there is immediate action, the country may find itself facing a price-wage spiral which will make the 1969–71 experience look pale by comparison.

The Administration has done almost nothing to cope with this urgent problem. The very limited moves announced last week seem designed to give the impression of action without actually doing anything.

Congress has extended for another year the Administration's authority to take firm action to control inflation. But the Administration has indicated that it will take no action until prices have already been raised 1½ percent on a weighted average for all the products sold by a firm. There is no limit on how much the price of an individual item can go up. And what action must a firm take if it wishes to raise prices by more than 1½ percent? It must notify the Cost of Living Council. That is all. Just notify them. There is no requirement that they must obtain approval.

I am not the only one who thinks recent actions are totally inadequate. Dissatisfaction with present policies is almost universal. For example, Pierre Rinfret, an advisor to President Nixon, has called the current policies "a continuation of a do-nothing policy... merely hoping or praying."

This morning we are going to do more than hope and pray. We are going to examine the causes of recent price increases and try to come up with remedies which are adequate to the present need.

Our first witness will be Dr. Walter Adams, Professor of Economics at Michigan State University. Dr. Adams served as President of Michigan State University in 1969. He has written books and articles on many different subjects. Most relevant to our interests this morning, he is the author of "Monopoly in America" and "The Structure of American Industry." He is widely recognized as a leading expert on the steel industry. His statement this morning will be devoted largely to the behavior of steel prices. Let me say that is an extremely timely subject, since we have read in the newspapers just yesterday that the steel industry wants to raise prices an additional 4 to 6 percent.

Following Dr. Adams, our next witness will be Dr. Robert Lanzilotti, Professor of Economics and Dean of the College of Business Administration at the University of Florida. Dr. Lanzilotti was a member of the Price Commission, where he served as a vigorous spokesman for tougher rules and regulations governing price increases. He appeared before the Joint Economic Committee at our Annual Hearings last February, and we are grateful that he has returned today to give us his assessment of the startling price developments which have taken place in just the brief three months since those hearings were held.

Our final witness will be my old friend, Robert Nathan of Robert Nathan Associates. Like Dr. Lanzilotti, Bob Nathan brings to the question of how to control prices both practical experience and professional expertise. Mr. Nathan is both a lawyer and an economist. He has been an observer or participant in economic policy ever since the days when he was Chairman of the Planning Commission of the War Production Board in World War II.

Dr. Adams, please lead off.

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STATEMENT OF DR. WALTER ADAMS

Mr. Chairman and Members of the Committee: I appear here this morning at your invitation to discuss steel prices and how to control them in a period of inflationary pressures. The moment is opportune. Just last week, the Bureau of Labor Statistics reported the largest one-month increase in wholesale prices since 1951. Incidentally, I recall that year with some nostalgia, because I served as economic counsel to the Senate Small Business Committee during the summer of 1951, and conducted a number of studies for Senator Humphrey's Subcommittee. Then as now, we were concerned with pricing practices of the steel industry.

THE RECORD OF STEEL PRICES

The U.S. steel industry is a classic, textbook oligopoly. Domestic producers do not compete among themselves in terms of price. It is simply not the custom of the industry. Instead of price competition, they follow a regime of strict price leadership and followership—more often than not in a monotonously upward direction.

Since the end of World War II, the industry's notorious policy of constant price escalation has contributed a prime stimulus to successive inflationary movements. Thus, between 1947 and 1951, according to the Council of Economic Advisers, "the average increase in the price of basic steel products was 9 percent per year, twice the average increase of all wholesale prices. The unique behavior of steel prices was most pronounced in the mid-1950's. While the wholesale price index was falling an average of 0.9 percent annually from 1951 to 1955, the price index for steel was rising an average of 4.8 percent per year. From 1955 to 1958, steel prices were increasing 7.1 percent annually, or almost three times as fast as wholesale prices generally. No other major sector shows a similar record." After a quiescent stage during the early 1960's, characterized by the moral suasion and "jawboning of the Kennedy Administration, steel prices resumed their upward movement in 1964—on a gradual selective product-by-product basis at first, and on a general across-the-board basis in 1969. The imposition of "voluntary" import quotas in January 1969 and the Nixon Administration's refusal to engage in government-industry confrontations simply accelerated the trend.

The one factor which dampened the industry's enthusiasm for marching in lockstep toward constantly higher price levels was the burgeoning of import competition. Thus, between January 1969 and December 1968, a period of nine years, the composite steel price index increased 4.1 points—or 0.45 points per year. Starting in January 1969, however, after the U.S. State Department had successfully persuaded the Europeans and Japanese to accept "voluntary" quotas on their sales to the United States (i.e. to enter into an informal international steel cartel), imports were cut back drastically and the domestic steel prices resumed their pre-1960 climb. In the four years between January 1969 and December 1972, the steel price index rose 26.7 points—or 6.67 points per year. Put differently, steel prices increased at an annual rate 14 times greater since the import quotas went into effect than in the nine years prior thereto. Through most of this period, the policy of price escalation was pursued in the face of recession, low volume, and the idleness of roughly 25% of the nation's steel capacity.

As if the import quotas—supplemented by "Buy American" regulations and assorted trade barriers—were not enough to insulate the steel industry from competition, President Nixon approved (and later withdrew) a temporary 10 percent surcharge on imports, including steel. In doing so, he perverted the "infant industry" argument for the benefit of lusty steel giants whose rambunctious excesses had wreaked havoc with past attempts at inflation control. With his arsenal of import restraints, he neutralized the perhaps most effective lid on steel pricing, while building up additional steam in an already overheated pressure cooker. These governmental actions also penalized such major steel consuming industries as automobiles, construction equipment, and agricultural implements which found it increasingly difficult to absorb the higher prices for an essential raw material while trying to maintain their competitiveness in domestic and foreign markets.

A longitudinal study of the structure, conduct, and performance of the American steel industry, I submit, yields some rather striking conclusions: giantism in this industry is the result of massive mergers of the past; the dominant firms are neither big because they are efficient, nor efficient because they are big; their technological lethargy, especially during the 1950's, when they lagged in introducing the basic oxygen process, continuous casting, and direct reduction of steel, put them at a comparative disadvantage in world competition; their insensitive, extortionate, oligopolistic price policy displaced American steel from world markets and opened the U.S. market to erosion by imports and substitutes; and, finally, the mercantilist protectionism of the federal government compounded the problems of the industry and the nation's economy. It gave legitimacy and endurance to a cartel which could not survive without government succor and support.

PUBLIC POLICY ALTERNATIVES

According to all reliable indicators, 1973 promises to be a banner year for the steel industry. A world-wide steel boom is in full swing, and the domestic industry is operating at nearly full capacity. Of the nine largest steel producers that have reported first-quarter earnings so far, the average increase in profits for the period was 67%, more than double the average increase in sales for the quarter. (*Wall Street Journal*, May 1, 1973) Part of this spectacular increase in profits is attributable to the 4% price increase, in effect since January 1, on 45% of the industry's product mix (primarily a variety of heavy products). Yet further price increases are in the offing. According to the trade press, the industry plans to increase the price on steel sheets (a large volume item) by some 2½ to 3% about June 1, and market conditions are such that the steel oligopoly will be able to make this increase stick. The prospects, therefore, are for more of the same—the steady price escalation which is a way of life in the American steel industry.

There are three major public policy options, if efforts are to be made to stem these inflationary pressures: (1) antitrust action; (2) direct controls; and (3) import competition.

(1) Antitrust action, consisting of a comprehensive dissolution-divorcement-divestiture program, is long overdue and eminently desirable to restore competitive structure, competitive conduct, and competitive performance in this somnolent oligopoly. Realistically, however, this is a long-term remedy which cannot be counted upon to provide immediate relief. All that can be done in the short run is to insist on tough enforcement of the anti-merger laws which would prevent any further concentration of power in an already overconcentrated industry.

(2) Direct controls, viz. the reimposition of Phase I or Phase II of the Nixon game plan, is at best a temporary expedient—likely to prove disappointing in the long-run. As our sad experience with this form of statecraft has demonstrated, regulation is a negative force for right conduct. A government commission can refuse to recommend a price increase, but it cannot compel an industry to lower production costs. It has no power to force regulated firms to spend money on new plants or scrap old plants. It cannot tell firms to increase expenditures on R & D, or to be more progressive in invention and innovation. Even if a commission had a perfectly clear view of what potentially attainable cost reductions and correct conduct are, it lacks the authority to compel powerful firms to comply with its prescriptions. Regulated firms may be prevented from doing the wrong things, but they cannot be forced to do the right things in the public interest. In short, since the regulators lack the power to stop cost inflation, waste, and what economists call x-inefficiency, they cannot affectively cope with steady price inflation.

One marginal suggestion: if Phase II controls are to be reimposed, oligopoly firms should be precluded from applying for price increases as long as they operate in markets protected by tariffs and/or voluntary or mandatory import quotas.

(3) Import competition is probably the most effective short-run measure for curbing inflation—and the major steel companies are fully aware of it. Ever since import competition began to erode their insulated market in the 1960's, the major companies have demanded protectionist privileges. After invoking the archaic Anti-Dumping Act of 1921 and suffering successive defeats before the Tariff Commission, they demanded revisions of the law which would enable them to stifle foreign competition. When the Congress refused to revise the anti-dumping statute, they demanded "temporary" tariff protection. When Congress also turned down this form of protection, they demanded mandatory quotas. And now, even though "voluntary" quotas have been in effect since January 1, 1969, they are still pressing for the kind of quota legislation embodied in the Burke-Hartke bill. In this drive, incidentally, the industry seems to enjoy the full support of the United Steel Workers of America.

Curiously enough, the industry offers startlingly contradictory arguments in support of its demand for quotas. Thus, in October 1967, Mr. John P. Roche, president of the American Iron and Steel Institute, told the Senate Finance Committee that quotas were necessary because of the chronic excess capacity in the world steel industry: "It has been estimated that steelmaking capacity abroad now exceeds demand by more than 55 million tons. Countries which formerly relied on imports for their steel requirements have tended more and more to develop their own steel industries and to protect them against imported steel. Home markets of some long-established steel producers have grown less rapidly than expected. These producers have, therefore, taken increasingly to invading the markets of other producers—especially that of the United States." Joseph P. Molony of the United Steel Workers presented parallel testimony to the Finance Committee.

Contrast that position with the industry's current rationale for protectionism. By 1980, says Father William Hogan, a sympathetic observer of the industry and a consistent advocate of import quotas, the annual steel demand will require a world-wide capacity of 1.1 billion raw tons as compared to today's capacity of only 780 million tons. "Blazes, that's a short fall, with new and replacement needs, of 600 million tons," he says. (*Forbes*, April 15, 1973) What was considered only a few short years ago a *chronic world steel surplus* has suddenly become an *endemic world steel shortage*—and the way to cure it, so runs the argument, is by higher prices and higher profits which would make additional investment in steel capacity attractive. This, in turn, would require—almost as a sine qua non—a "normalization" of world trade in steel, meaning strict regulation of steel imports and the sterilization of their impact on domestic steel prices.

Such a policy, as I see it, would be an invitation to national disaster. Unlike the American steel industry, the leading steel producers of the world are subject either to a strong import discipline or a strong export discipline or both. (See attached tables) They are subject to constant exogenous pressures which force them to behave competitively, aggressively, and efficiently. Unlike their American conferes, they cannot afford the luxury of leading the quiet life and still survive.

A nation's industrial power, I submit, is not the product of governmental permissiveness and governmental coddling. The end of that road is marked "Penn Central" and "Lockheed". Industrial power is the fruit of the constant spur for efficiency and progress which is best provided in a competitive environment.

PRICE INDEX, IRON AND STEEL (SELECTED DATES)

| Month and year | 1957–59=100 | 1967=100 |
|---|---|---|
| January 1960 | 102.0 | 98.4 |
| December 1968 | 106.1 | 102.4 |
| December 1969 | 113.9 | 109.9 |
| December 1970 | 120.7 | 116.5 |
| December 1971 | 129.8 | 125.3 |
| December 1972 | 134.2 | 129.5 |
| January 1973 | 136.65 | 131.9 |
| February 1973 | 137.79 | 133.0 |
| March 1973 | 138.10 | 133.3 |

Source: Based on BLS wholesale price index.

STEEL SHIPMENTS, IMPORTS, AND EXPORTS FOR THE UNITED STATES, 1960–72

[In thousands of net tons]

| Year | Shipments | Imports | Imports as a percent of apparent consumption | Exports | Exports as a percent of shipments |
|---|---|---|---|---|---|
| 1960 | 71,149 | 3,578 | 5.0 | 3,224 | 4.5 |
| 1961 | 66,126 | 3,321 | 4.9 | 2,228 | 3.3 |
| 1962 | 70,552 | 4,306 | 5.9 | 2,274 | 3.2 |
| 1963 | 75,555 | 5,665 | 7.2 | 2,556 | 3.3 |
| 1964 | 84,945 | 6,711 | 7.6 | 3,735 | 4.4 |
| 1965 | 92,666 | 10,749 | 10.7 | 2,837 | 3.1 |
| 1966 | 89,995 | 11,166 | 11.3 | 2,027 | 2.2 |
| 1967 | 83,897 | 11,924 | 12.7 | 1,971 | 2.3 |
| 1968 | 91,856 | 18,462 | 17.1 | 2,499 | 2.7 |
| 1969 | 93,877 | 14,615 | 14.2 | 5,597 | 6.0 |
| 1970 | 90,798 | 13,997 | 14.4 | 7,460 | 8.2 |
| 1971 | 87,038 | 18,930 | 18.4 | 3,155 | 3.6 |
| 1972 | 91,805 | 17,681 | 16.6 | 2,873 | 3.1 |

Source: "Annual Statistical Report," American Iron & Steel Institute, various years.

STEEL SHIPMENTS, IMPORTS, AND EXPORTS FOR SELECTED COUNTRIES, 1969–71

[In thousands of metric tons]

| Year | Shipments | Imports | Imports as a percent of apparent consumption | Exports | Exports as a percent of shipments |
|---|---|---|---|---|---|
| Germany: | | | | | |
| 1969 | 38,976 | 8,072 | 21.5 | 9,568 | 24.5 |
| 1970 | 37,938 | 8,059 | 21.5 | 8,565 | 22.6 |
| 1971 | 30,807 | 8,638 | 28.9 | 9,540 | 31.0 |
| France: | | | | | |
| 1969 | 17,822 | 5,959 | 32.6 | 5,478 | 30.7 |
| 1970 | 18,248 | 6,520 | 35.0 | 6,157 | 33.7 |
| 1971 | 18,354 | 5,732 | 32.9 | 6,661 | 36.3 |
| Italy: | | | | | |
| 1969 | 14,374 | 3,489 | 20.8 | 1,055 | 7.3 |
| 1970 | 14,143 | 4,395 | 25.2 | 1,078 | 7.6 |
| 1971 | 14,691 | 3,520 | 22.1 | 2,265 | 15.4 |
| Benelux: | | | | | |
| 1969 | 19,042 | 4,168 | 48.0 | 14,534 | 76.3 |
| 1970 | 18,562 | 4,391 | 51.8 | 14,475 | 78.0 |
| 1971 | 18,581 | 4,296 | 52.4 | 14,686 | 79.0 |
| Japan: | | | | | |
| 1969 | 58,253 | 129.1 | .3 | 16,006 | 27.5 |
| 1970 | 65,368 | 268.3 | .6 | 17,981 | 27.5 |
| 1971 | 63,192 | ---------- | ---------- | 24,178 | 38.3 |

Source: European and Japanese statistical yearbooks and reports, various years.

STATEMENT OF DR. ROBERT F. LANZILLOTTI

Mr. Chairman, members of the Committee, I am honored and pleased to be invited back to testify before this Committee on the continuing problem of inflation and the policy issues facing the Congress and the Economic Stabilization Program. My views on the nature of the inflation problem are essentially unchanged from my testimony before the full Commitee in February, although the short-run policy dilemma clearly has become more acute.

In February, I cautioned that "We are unquestionably entering the most difficult stage of the current inflationary process. Demand pressures will combine with, not replace, cost-push pressures." Events of the past few months have confirmed this diagnosis and have complicated the policy dilemma the nation faces, especially as it pertains to the role of direct wage and price controls.

The inflation statistics are both startling and disturbing, as shown in Table 1. From February to March alone, wholesale prices increased by 2.2 per cent and retail prices by 0.8 per cent. Of greater concern is the acceleration that has taken place both in the WPI and CPI since December, 1972. Principal attention has focused on the continued surge in food prices, but since December there also has been an acceleration in the

prices of industrial goods. For example, in the three months ending March, 1973 wholesale industrial commodity prices increased at a 10.3 per cent annual rate, compared to a 2.0 per cent annual rate in the three months ending December, 1972. (Moreover, early reports available at this writing indicate that industrial prices rose by 1.4 per cent from March to April.) Similar rises are evident in other components of the WPI and CPI (Table 1).

These statistics are clear enough, but they provide only limited insight to the causes and characteristics of the current surge in inflation, and alone are an ambiguous guide to policy. More particularly, the recent advance in the inflation rate does not represent a broad cross-sectional surge of wage-price increases, which is important in deciding where we go from here in the use of wage and price controls and the proper course of economic policy in 1973.

It is my understanding that the Committee wishes to concentrate today on the behavior of non-food prices. Before turning to that area, I want to stress that the large increases in food prices over the past few months will continue to contribute to the inflationary process even after the rises abate, and as a consequence, are of special significance for purposes of economic stabilization policy in 1973. This will be due to legitimate demands for wage and salary adjustments to maintain real income positions.

TABLE I.—CHANGES IN WHOLESALE AND RETAIL PRICE INDEXES AND COMPONENTS, 1972-73

| Index | Percentage change for 3 months ending[1]— June 1972 | September 1972 | December 1972 | March 1973 |
|---|---|---|---|---|
| I. WPI: All items | 4.9 | 6.7 | 9.6 | 12.5 |
| A. Industrial Commodities | 4.9 | 3.2 | 2.0 | 10.3 |
| B. Farm products (including processed foods and feeds) | 4.8 | 17.4 | 30.1 | 53.1 |
| C. Consumer foods | 2.7 | 10.0 | 15.8 | 45.0 |
| D. Consumer finished goods | 2.5 | 6.7 | 5.9 | 21.7 |
| E. Consumer goods (excluding food) | 2.5 | 3.9 | —.3 | 7.3 |
| II. CPI: All items | 2.2 | 4.6 | 3.2 | 8.5 |
| A. Commodities | 2.0 | 5.4 | 2.3 | 12.8 |
| B. Commodities (less food) | 2.7 | 4.1 | 1.0 | 3.4 |
| C. Services (not seasonally adjusted) | 3.1 | 3.0 | 3.9 | 3.6 |
| D. All items (less food) | 3.2 | 3.5 | 2.5 | 3.2 |
| E. Nondurable Commodities | .7 | 5.7 | 3.3 | 16.8 |
| F. Apparel (less footwear) | .3 | 2.3 | 4.6 | 3.3 |
| G. Services (less medical care, not seasonally adjusted) | 2.4 | 3.1 | 3.6 | 3.6 |
| H. Insurance and finance | 4.6 | 2.8 | 2.8 | —.5 |
| I. Utilities and public transportation | 3.9 | 3.2 | 3.2 | 2.9 |

[1] Seasonally adjusted, compounded annual rates.

Source: Bureau of Labor Statistics.

Thus, the major challenge for current stabilization policy is to prevent the food price surge from triggering another wage-price spiral later in 1973 and 1974.

In this connection, it is generally agreed that the most serious problem in the food area is the rise in meat prices. What is usually not made clear is that the rise in meat prices lies in unwise government policies designed to limit production, and to increase the prices, of feed grains. In simplest terms, when feed grains are short, their prices rise and farmers reduce livestock production. Hence, the official policy of keeping farm prices high by paying farmers for not producing as much as they could must be blamed for this part of the inflation.

In all candor, I should note that the Price Commission found no magic solution to rising food prices during Phase II, although *very early in 1972 we urged the Secretary of Agriculture to modify the planned acreage set-asides, with singular lack of success.*

In the non-food sector, many separate forces lie behind the surge of commodity price rises, including: (1) the effects of the second U.S. devaluation in February; (2) the uncertainty about the current structure of Phase III controls; (3) anticipations of another freeze, price rollbacks, and tougher controls; (4) various "catchup" increases from the relaxation of Phase II controls in January (e.g., lumber); (5) the implementation of the auto price increases which had been postponed by the Price Commission late in 1972; and (6) a general rise in aggregate demand reflected in sharp increases in consumer spending, capital outlays by business, and government expenditures, which make it easier for price increases to stick.

Since many of the influences affecting the recent surge in prices are largely transitional their pressure on prices is not likely to persist. In the case of some price increases, however (e.g., paper, textile products, machinery and equipment) serious questions can be raised about the efficacy of Phase III controls since these are not areas in which rising raw material prices are in evidence.

In short, the U. S. inflation problem has become more complicated than the situation prior to August, 1971. Because of this, policy prescription, at least for the short run, is neither simple nor clearcut. Part of the reason is that the momentum gained in reaching price and wage stability under Phase II has been lost, and there is a re-appearance of the kind of crisis atmosphere that prevailed during the early summer of 1971. This calls for firm action on economic policy to correct what appears to be a kind of "policy drift."

I remain convinced that the fundamentals of long-run price stabilization lie in the prudent use of monetary policy and fiscal policy. However, in the short run care is required in the use of these policies, especially monetary policy, so that there is not an overreaction to the current crisis with overly restrictive monetary policy, throwing the economy into a recession. Also, the President's recommended budget of $269 billion for FY 74 should provide fiscal restraint for the remainder of 1973 and early 1974, although in my opinion both monetary and fiscal policy were too expansive this past year.

Thus, the current dilemma is not only the proper mix of traditional policy instruments for 1973, but whether wage and price controls should be relaxed, tightened, left unchanged, or abolished altogether. The argument for abolishing controls completely rests on the premise that the surge in prices at wholesale and retail is largely a bulge phenomenon. The opposing view is that while a bulge problem has developed, the rises in the WPI and CPI are not all of that nature, and even if we are dealing largely with a bulge problem, it nonetheless is likely to trigger higher wage demands in 1973, which, in turn, can lead to further wage-cost push in 1973 and 1974.

From the standpoint of deciding on a safe policy course, we should examine the probable effects of the bulge hypothesis if controls are (a) abolished or (b) continued, alternatively assuming the hypothesis turns out to be correct or incorrect.

If the bulge assumption should be correct, either continuing or abolishing controls would not make much difference for price stabilization, although controls could lead to some market distortions. However, if demand is expected to ease, or supplies increase, as implied in the bulge hypothesis, then distortions from controls would be minimized.

If the bulge hypothesis turns out to be incorrect, however, abolishing controls and simply riding out the price rises implies acceptance of another click on the inflation ratchet for 1973 and beyond. Alternatively, if controls are maintained, on the assumption that the bulge hypothesis is incorrect, it can help attenuate wage-price increases.

In short, the point is that controls are still needed for the short term to prevent the bulge from causing larger problems, and may be required for the long term if the rise in prices is more than a bulge phenomenon. This is the basic rationale for continuing controls at the present time.

I do not have a particular set of economic policy changes that I am confident will take us out of the current inflation. However, I believe the mix requires some direct controls. Also, there are some lessons we can learn from errors of the past few years, especially in the agricultural policy area, as noted previously.

Aside from the inflation problem in the food sector, I see no easy solution to the problems in the industrial sector. At this juncture my views are as follows:

(1) I do not favor a general wage-price freeze for the current situation, as some have proposed. The circumstances are quite different from those preceding the freeze of 1971 and it is doubtful that another freeze would accomplish anything constructive.

(2) At the same time, I do not favor a policy of relying exclusively on monetary and fiscal policy to take us out of this crisis, since I do not expect that this policy mix will be any-more effective today than it was between 1969 and 1971.

(3) Thus, I am not in favor of dropping controls altogether. As I stated here in February, I still regard government intervention in the processes of wage and price determination as generally undesirable from an economic standpoint, but such actions still are necessary for the near term.

(4) Other actions such as agricultural policy reforms and policies to make markets more competitive will help over the long run, but will not alleviate the current problem.

(5) In the area of price controls, some tightening is called for. The pre-notification requirement should be reinstated for companies in the Tier I category so that the Cost of Living Council can be aware of price increases and their justification. Additionally, I would favor tightening the standard for price increases to limit cost passthroughs to *direct* cost increases than *total* cost increases.

(6) Some agency should be on guard to insure that the shortage situation emerging in gasoline does not produce adverse effects on the competitive structure of retail markets. This may require a program of gasoline rationing by major refiners to all customers in order to prevent independents from being pushed to the wall due to the shortages in some areas. I note that some efforts along these lines are under consideration, and believe they deserve strong support.

(7) In regard to the wage standard, it is going to be difficult to enforce the 5.5 per cent standard in the wake of the food-price surge. Therefore, I suggest consideration be given to a policy of temporary tax credits to certain individual taxpayers to make up for the loss in purchasing power due to the price rises since December. This would permit enforcement of the 5.5 per cent standard on wage adjustments, and at the same time help minimize the ratchet effect from extra "catchup" wage increases that seem imminent in 1973 bargaining.

In summary, it is regrettable that relative real income positions reached under Phase II have been altered by events since January,

undermining confidence in the efficacy of Phase III controls. Catchup actions by business and labor are necessary and proper, but these need to be carefully contained for the near term by wage-price restraints to minimize the possibility of a recurrence of the 1971 crisis. Finally, high-level presentation of a candid analysis of the current economic situation, outlining the nature of the problem and the mix of economic medicine required, can help restore public confidence in economic policy.

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TESTIMONY OF ROBERT R. NATHAN

The recent sharp acceleration in industrial prices at the wholesale level points toward continued serious inflation for consumers. Prices at wholesale do have an impact on retail prices after some lag. That is precisely why precipitous skyrocketing, first of farm product prices and now of wholesale industrial prices must be a source of deep alarm.

From 1966 to 1970 all wholesale prices increased about 2.5 percent per year and the rise in industrial commodities was less than 3 percent annually. Since then the upward pace tended to quicken, but it was not until 1972 when the increase in wholesale prices really broke loose. The figures now reveal that late in 1972 and throughout the early months of 1973 the lid was blown off the general inflation and we seem to be back on a worsening inflation spiral with a vengeance.

In April industrial commodities in the wholesale price index were 9 percent higher on an annual basis than six months earlier, but in the last three months the yearly rate of rise was nearly 15 percent. The wholesale price index of finished consumer goods increased at a rate of over 20 percent in the last three months. The inflation in consumer goods, excluding food, rose at an annual rate of nearly 13 percent in the last quarter. The food price index declined fractionally in April but the total price picture is a dismal one.

The shift from Phase II to Phase III in January was timed about as badly as a wild inflationist would seek. The Chairman of the Council of Economic Advisers recently said that since it would be necessary at some date to move from Phase II to Phase III he concluded that January was as propitious a time as any. One need only have looked at two known critical facts to conclude otherwise. Prices of farm products had risen 10 percent at wholesale in November and December 1972 and it was obvious they would rise much more. Also, everyone knew that critical wage negotiations were coming up in the spring and summer of 1973. These two known facts were good reasons for not decontrolling or weakening controls in January of 1973. In fact, there was practically no reason for such a move at that time. The excuse that distortions were resulting from controls has not yet been explained in even the slightest degree. The decision was a dreadful and costly mistake.

I testified before the Joint Economic Committee in November 1972 and I expressed my horror over the possibility of a major mistaken policy decision of removing controls too soon. Now we see the folly of weakening controls in January. We have just seen a patchwork effort of trying to apply a band-aid to a severed artery. It is quite clear that the fight against inflation has been largely abandoned by the Administration. It is equally evident that the only meaningful effort to bring inflation under control will be through curtailing overall economic activity.

Apparently the Administration economists did not learn a lesson from their experiences of 1970 and 1971 when the planned and costly recession failed to really bring the inflationary spiral to a halt. They are on the brink of programming another recession which will also prove to be a failure in achieving relative price stability.

The freeze in August 1971 and the subsequent controls imposed in November as Phase II did serve in some degree to unwind the spiral—although not adequately. Regrettably, the weak and wobbly Phase III was introduced before the spiral was really broken. Now it is quite clear that we are in a new spiral.

I do not believe any serious economist would contend that the 40 percent annual rate of increase in wholesale farm prices in the last six months will continue. Nor is it likely that the recent annual rate of increase in wholesale industrial commodity prices of nearly 15 percent will accelerate or long continue. However, there is every reason to expect that inflation in 1973 will be much worse than in 1972 and that the prospect of getting down to the President's promised 2½ percent annual rate of inflation is about as likely as the proverbial snowball into hot locations.

It is interesting to note that in three months of Phase III the annual rate of increase in wholesale prices of all commodities was over three times the rate in Phase II; of industrial commodities over four times; and of consumer finished goods, excluding foods, it was over five times. This is a stormy picture from any view. It seems as though the Administration economists use both ends of strong binoculars in their economic analyses. When there is a slight improvement in price stability they look through the magnifying end of the binoculars and statements on progress are greatly exaggerated. On the other hand, when there is really bad news the officials turn their binoculars around and look through the other end, belittling the adverse trends. It seems that there is an element of self-delusion in this process as well as deception.

The probabilities are that the domestic inflationary consequences of two dollar devaluations have by no means been fully reflected in our prices. Devaluations mean that domestic prices of imported goods in the United States tend to increase. Many of the raw materials as well as components and finished products that come into the United States are selling at higher prices. Further, the devaluation will intensify foreign demand for U.S. exports and if there now were a tendency for overheating in selected sectors of the economy, the rapidly rising export demands in those industries in which domestic demands are rising rapidly could feed the fires of inflation. Looking at the overall picture, however, the continuation of the 5 percent rate of unemployment hardly indicates that aggregate demand is excessive and that the economy generally is overheated. There is no basis for concluding that the way to fight further inflation now is to slow the economic expansion and to increase the rate of unemployment. That policy would be a costly failure.

In the coming months there are going to be some very important wage negotiations. Workers cannot be expected to sit back and watch consumer prices skyrocket and still exercise great restraint in making demands for higher wages. Excessive wage increases will be regrettable from the workers' as well as the country's point of view because labor will be among the severest victims of further inflation. Yet I do not see how the union leaders can be expected to exercise restraint when the government makes foolish policy mistakes and when profits are rising at a phenomenal rate. Maybe profits are not too high but the rate of rise in profits is too high. Sadly, the spiral of inflation is mounting and labor will suffer and the economy will be weakened.

No one likes controls, but we would have been much better off had Phase II been administered more tightly and continued for several more months. At least it would have gotten us through a period of very sharp food price increases with minimum damage. It might have delayed the second devaluation which in turn would have kept import prices from rising so much. Finally, and most important of all, it would have provided the basis for more moderate wage settlements in 1973.

The real question now is whether effective controls can be restored. It is not a very pleasant choice to restore tougher controls, but in the longer run we will be much better off to have a freeze for a time—preferably retroactive for a limited period—and then move to a new tough Phase II for perhaps as long as a year, rather than do practically nothing. It would be much more difficult than it was the first time around, but the alternative of a new spiral of inflation which will be costly and damaging will bring even more painful economic ailments. Worse still would be another recession undertaken by those who still refuse to recognize the processes involved in an inflation spiral and who delude themselves into thinking that a recession will restore price stability. Of course we must prevent overheating when it threatens, but we must break the spiral by direct and drastic means.

The choices are difficult but it is better to move firmly now than to sit idly and become enmeshed in the spiral. If we do not act quickly the value of the dollar will shrink and shrink. Perhaps we will have to resign ourselves to the final use of the present dollar—namely, as premium stamps. If the inflation doesn't slow down we can probably use the present currency as S&S Green Trading Stamps commemorating Messrs. Schulz and Stein for their role in the sharp drop in the value of the dollar.

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## AUTO EMISSION STANDARDS

Mr. DOMENICI. Mr. President, as an American who is deeply concerned about air pollution and as a member of the Air and Water Subcommittee of the Senate Public Works Committee, I have followed very closely the debate on the 1975 auto emissions standards. Prior to the announcement of EPA's decision on April 11, 1973, I had asked my scientific advisory committee in New Mexico to prepare a report for me on the issue of automobile emission standards.

I received the report from that committee at about the same time the Air and Water Subcommittee held hearings on the EPA's decision on the 1975 auto emissions standards and I found the report to be very helpful to me in preparation for and participation in those hearings. I feel that the work of groups such as this represents significant resources which I urge my colleagues in the Senate to utilize to a greater extent. I ask unanimous consent that the report be printed in its entirety at this point in the RECORD.

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

AUTOMOBILE EMISSIONS STUDY

(By the Scientific Advisory Committee to Senator PETE V. DOMENICI)

ANSWERS TO SPECIFIC QUESTIONS

The opinion of the study participants regarding auto emissions is:

(1) Automobile emission standards and regulations to control emissions are necessary now. Both will become more important as time goes by.

(2) The federal auto emissions standards (levels) are reasonable in that (a) they will improve air quality in many metropolitan areas to an acceptable level and (b) they will

slow the deterioration of air quality during further industrial and population growth until other control measures can be taken.

(3) It is technically feasible to build automobile engines that can meet the federal standards. However, with only 20 months until the 1975 automobiles are due to come out, Chrysler may not make it. The approach they have chosen (piston engines and catalytic converters) and the lack of progress they have shown to date toward meeting the standards are prime factors. Consequently, their contention that a severe burden on natural and economic resources will result from the standards is partially true.

The United States Environmental Protection Agency has prepared a reply to industry's criticism of the automotive emissions standards entitled "The Federal Automobile Emission Standards: Their Purpose, Their Need, Their Impact." The study participants support the EPA position described in this reply in its entirety.

The discussion below is intended as a concise qualification and elaboration of the answers given above.

NATIONAL ACADEMY OF SCIENCES REPORT

The specific questions that were considered by our group were addressed in a vastly greater depth by the National Academy of Sciences for the Congress and the Environmental Protection Agency. The work, "Report by the Committee on Motor Vehicle Emissions," dated February 15, 1973, 140 pages, is available from the Academy. Its substance and conclusions, with which ours are in consonance, are not quoted nor summarized here because of the danger of taking them out of context as we believe the Chrysler report has done. We believe that this is the single best summary of the automobile emissions problem currently available.

STANDARDS

Federal exhaust emissions standards (Federal Register, Vol. 37, No. 221, Part II, dated Nov. 15, 1972) for light duty vehicles and required reductions from uncontrolled levels (noted as % in Chrysler report) are shown below:

FEDERAL EXHAUST EMISSION STANDARDS

| Item | Amount (grams per vehicle mile) | | Required reduction from uncontrolled levels (percent) |
|---|---|---|---|
| | 1975 | 1976 | |
| Hydrocarbons | 0.41 | 0.41 | 97 |
| Carbon monoxide | 3.4 | 3.4 | 96 |
| Nitrogen oxides | 3.1 | .40 | 93 |

Federal air quality standards and those for New Mexico are shown in Table I (attached). The amount that auto emissions need to be regulated to achieve the air quality standards cited is a function of growth in the number of cars, the trend in size and type of engines, atmospheric conditions in each locality, the amount auto emissions contribute to air pollution relative to other sources, etc. Quantitative estimates of the items above have been based on insufficient data. Consequently, current and future decisions must be based on the best information available and must be accepted subject to revision as new and better information becomes available.

CRITERIA

The criteria used to establish air quality standards will influence the standards that are set. What criteria should be used depend on many variables that interact in a complex manner. The Clean Air Act defines standards as follows:

Primary—those necessary to protect public health; and secondary—those necessary to protect the public's welfare from any known or anticipated adverse effects of a pollutant.

Further the act states that:

"The promulgation of national primary and secondary ambient air quality standards shall not be considered in any manner to allow significant deterioration of existing air quality in any portion of any State."

Much of the Chrysler proposal for relaxed emission controls centers on arguments concerning those levels necessary to meet only the primary standard of protecting public health.

Whether auto emissions for 1975–76 should be based on primary or secondary air quality standards is a difficult question. Our group believes that not only should the secondary standards be used as criteria where they apply but also air quality in New Mexico, which is better than the federal standards, should not be permitted to deteriorate below existing quality.

EFFECTS

Tables II and III are listings of toxicological effects of air pollutants. They are included here to help provide some perspective on the problem.

ENGINES THAT MEET FEDERAL STANDARDS

EPA has tested three engines that meet the 50,000-mile durability requirement for emission standards. The Honda meets the requirements through vortex controlled combustion combined with small engine displacement. It provides 65 horsepower which limits its use to 1600-pound automobiles. The Mazda Wankel rotary engine, which meets the standards, is small also and requires a thermal reactor for oxidation of carbon monoxide and unburned hydrocarbons. Even these engines will require additional development if enlarged to be suitable for standard sized and larger cars. The Mercedes diesel is a fairly large engine but is noisy and emits fumes. Both characteristics are objectionable but are not covered by current standards.

AMERICAN AUTO MANUFACTURERS' APPROACH TO EMISSION CONTROL

There is great concern that the American automobile manufacturers have chosen an emergency approach with limited options in continuing with current engine technology which requires the proposed catalytic systems for controlling emissions. It is true that, having made this choice, time scales may not permit catalytic converters to be sucessfully developed and tested at reasonable cost before the 1975 deadline. However, if the standards or the time sales are relaxed at this time, it is feared that the auto manufaturers will not exert suffiient effort to solve the emission problem. The alteranatives, which might be more satisfactory, but for which there also is insufficient time, include changing over to new engine types under active investigation by the Department of Transportation as well as private agencies or converting to other fuels. (Another alternative for meeting air quality standards for which the auto manufacturers are not responsible would be to develop mass transit systems and reduce the number of private automobiles. This too is a complex problem relating to public acceptance.)

The inefficency of the piston engine-catalyst system is cause for concern. This system will result in the expenditure of greater amounts of gasoline at a time when the shortage of petroleum products is critical. There is no doubt that the whole matter is complex and that the interactions of one decision on another need to be examined.

COSTS

The following appears in the EPA statement on automobile emissions:

"The government sets the emission standards; industry chooses the technology."

We add, "and the public pays the costs."

At this point in time we do not believe that anyone knows whether there will be a cost gain or loss to the public. Nor do we know to what degree the public would choose to pay for clean air.

The public will have to pay the cost of automotive developments to control emissions whether in the form of catalytic converters, in new tooling for new engine types or in other forms. Also, the public will have to accept the current loss in vehicle performance resulting from the use of emission controls. It is possible that the position of the automobile manufacturers reflects their interpretation of the choice that the public would make on the basis of current cost information. Following is an attempt to tabulate a balance sheet to show how costs interact.

TABLE IV.—HYPOTHETICAL COST BALANCE SHEET

| Item | Cost | Gain |
|---|---|---|
| New development of auto emission controls | $X | |
| Maintenance of auto emission controls | X | |
| Increased fuel cost (perhaps very important in light of energy problems) | X | |
| Health benefits | | $X |
| Property benefits | | X |
| Esthetic benefits | | X |
| Total | XX | XX |

Whether the gain will balance with the cost at the present time we are not sure. Eventually it will have to.

TRADE-OFFS AND SYSTEMS ANALYSES

The questions of automobile emissions and air quality are fraught with complex interactions. Every decision will probably be a compromise where no single feature will be optimum. For example, in internal combustion engines the air-fuel ratio that provides minimum hydrocarbon and carbon monoxide emissions causes maximum nitrous oxides emissions. Also, engines are not designed to operate with the air-fuel ratios that are the best compromise to keep emissions low. Further, if emission control and engine operation are compromised to be as favorable to both as possible, continuous maintenance and fine tuning may be necessary to avoid large scale multiplication of emissions and low engine performance.

This is a simple illustration of a general truth with far reaching implications. To understand whether a conclusion is right or wrong or partially so requires an assessment of as much of "the total system" as possible. What follows then is that effective R&D to determine the appropriate trade-offs and broad systems analyses to determine the effects are not only justified but necessary to obtain the right answers.

RECOMMENDATIONS

The study participants, speaking as scientists, engineers and as part of the public, support the federal auto emission and air quality standards and, in New Mexico, the state air quality standards which are more stringent. We believe that the position of the automobile manufacturers is not completely justifiable.

Our recommendations are as follows:

1. Support current federal standards.

2. Support the EPA position.

3. Support federal and private initiatives on fundamental engine designs that will solve the long-term emissions problem with fewer engineering and efficiency compromises.

4. Look into the possibility of providing incentives to manufacturers for meeting standards.

Intuitively and on the basis of current information we believe that the federal emis-

sion standards are reasonable, that the benefits justify the effort, and that the public will choose to pay the costs. However, we have reservations regarding Chrysler Corporation's ability to comply with the standards by 1975.

WILLIAM H. KINGSLEY, *Chairman.*

(Report edited by E. L. Harley.)

TABLE I.—AMBIENT AIR QUALITY STANDARDS

| | Federal | New Mexico |
|---|---|---|
| A. Particulate: | | |
| 1. 24-hr average | 260 μg/m³ [1] | 150 μg/m³ |
| 2. 7-day average | | 110 μg/m³ |
| 3. 30-day average | | 90 μg/m³ |
| 4. Annual geometric mean | 75 μg/m³ [1] | 60 μg/m³ |
| B. Particulate elements (30-day average): | | |
| 1. Beryllium | | 0.01 μg/m³ |
| 2. Asbestos | | 0.01 μg/m³ |
| 3. Heavy metals (total combined) | | 10 μg/m³ |
| C. Air contaminants: | | |
| 1. Sulfur dioxide: | | |
| (a) 24-hr average | 0.14 ppm [1] | 0.10 ppm |
| (b) Annual arithmetic average | 0.03 ppm [1] | 0.02 ppm |
| 2. Hydrogen sulfide (1-hr average) | | 0.003 ppm |
| 3. Total reduced sulfur (1-hr average) | | 0.003 ppm |
| 4. Carbon monoxide: | | |
| (a) 8-hr average | 9 ppm | 8.7 ppm |
| (b) 1-hr average | 35 ppm | 13.1 ppm |
| 5. Nitrogen dioxide: | | |
| (a) 24-hr average | | 0.10 ppm |
| (b) Annual arithmetic average | .05 ppm | 0.05 ppm |
| 6. Photochemical oxidants (1-hr average) | | 0.06 ppm |
| 7. Nonmethane hydrocarbons (3-hr average) | .24 ppm | 0.19 ppm |
| D. Soiling index (annual average) | | 0.4 cohs/1,000 linear ft of air. |

[1] Standards annotated here are primary standards only. Federal secondary standards for these items are the same as those shown for New Mexico.

TABLE II—AIR POLLUTION—HUMAN HEALTH EFFECTS

MATERIAL, CONCENTRATION, AND EFFECTS

*A. Ozone* [1]

1. 0.2 ppm, None.
2. 0.3 ppm, Nose and throat irritation.
3. 0.5 ppm, Decreased forced expiratory volume.
4. 0.6 ppm to 1 ppm, Impaired pulmonary function.
5. 1 ppm to 3 ppm, Intolerable.
6. 9 ppm, Severe illness.

*B. Nitrogen oxides* [1]

1. 1 ppm to 3 ppm, Odor threshold.
2. 10 ppm, Adverse thickening of lung lining.
3. 15 ppm, Abnormal increase of lung cells.
4. 50 ppm to 100 ppm, Bronchiolitis.
5. 150 ppm to 200 ppm, Fatal in three to five weeks.

*C. Sulfur dioxide* [1]

1. 0.3 ppm, Taste.
2. 0.5 ppm, Odor.
3. 1 ppm to 2 ppm, Slightly increased pulmonary flow resistance (PFR).
4. 5 ppm, 30% increase in PFR after ten minutes.
5. 13 ppm, 72% increase in PFR.

Nasal passages absorb approximately 84% of $SO_2$.

Particulates multiply irritation 3 to 4 times.

*D. Carbon monoxide* [2]

(COHb level (gas level))

1. Less than 1%, no apparent effects.
2. 1% to 2% (10 ppm), some evidence of behavioral performance effects.
3. 2% to 5% (30 ppm), central nervous system effects.
4. >5%, cardiac and pulmonary functional changes.
5. 10% to 80% (100 ppm to >750 ppm), headaches, fatigue, drowsiness, coma, death.

Rural non-smokers have a background level of 0.4% COHb.[1]

Urban non-smokers have a background level of about 2% COHb.[3]

Smokers have a background level of from 5% to 12% COHb.[3, 2]

*E. Hydrocarbons* [1]

"There is little evidence to indicate direct health effects of the gaseous hydrocarbons present in the ambient air."

*F. Particulates* [1]

Cause permanent or reversible injury dependent upon type and concentration. Synergistic effects are of considerable importance.

1. Non-viable [4]

a. Asbestos: Generally requires prolonged periods of exposure ('10 to 20 years) to result in the progressive diffuse fibrosis that characterizes asbestosis.

b. Beryllium: Causes shortness of breath, cough, loss of appetite and weight loss in acute cases. In chronic cases it causes lesions of the skin, liver, kidneys, spleen, lymph nodes and lungs.

c. Carbon: In small amounts, by itself, appears to be harmless. Larger amounts can cause difficulty in breathing.

d. Coal: Appears harmless in the small amounts generally found in the usual urban atmosphere.

In coal mine workers it causes difficulty in breathing, frequent cough, expectoration of inky black sputum, severe breathlessness on exertion, can lead to emphysema and disposes one to tuberculosis.

e. Lead: Causes abdominal pain and tenderness, constipation, headaches, weakness, muscular aches and cramps, vomiting and anemia.

Lead aerosol levels appear to be increasing at 5% per year in San Diego, Calif. The primary source appears to be gasoline.

f. Mercury: Can produce abdominal pain, vomiting, diarrhea, pneumonia, renal damage, circulatory and respiratory failure, emotional instabilities.

g. Nickel: Will produce cancer in animals and man when inhaled as nickel carbonyl. One source is the exhaust from burning diesel fuel.

2. Viable [5]

a. Microorganisms: Algae and protozoa, not generally airborne. Fungi, molds, spores, can cause allergic reactions and plant diseases. Bacteria, cause diseases.

b. Pollen: Causes hayfever and other allergic reactions.

FOOTNOTES

[1] Introduction to the Scientific Study of Atmospheric Pollution. Edited by McCormac. See Air Pollution Human Health Effects Chapter.

[2] *Carbon Monoxide* by Philip Wolf. Environmental Science and Technology. Vol. 5, No. 3, March 1971.

[3] *Let's Have Clean Air*, Chrysler Corporation Booklet. December 1972.

[4] McCormac (ed), *Introduction to the Scientific Study of the Atmospheric Pollution*, pp. 97–130. See Chapter entitled Air Pollution Human Health Effects by Richard L. Masters, D. Reidel Publishing Company, Dordrecht Holland 1971.

[5] Stern, *Air Pollution*, Vol. 1, Academic Press 1968.

TABLE III—AIR POLLUTION—VEGETATION EFFECTS*

*1. Sulfur dioxide*

Acute injury does not occur below 0.25–0.30 ppm over an indefinite time period. Chronic injury at 0.10 to 0.30 ppm for sensitive species. No injury at 0.05 ppm.

Synergistic with ozone.

*2. Ozone*

Response in 1 to 2 hours at 0.05 ppm; response in 4 to 8 hours at 0.02 ppm.

*3. PAN (peroxyacetyl nitrate)*

Field Levels between 0.01 to 0.05 ppm will injure sensitive plants.

*4. Fluorides*

Accumulation in leaf tissue. Leaf concentrations of 50 to 200 ppm can produce necrosis on sensitive plants.

*5. Ethylene*

Dry sepal of orchid at 0.005 ppm or less.

Epinasty in tomatoes at 0.1 ppm for several hours.

*6. Nitrogen dioxide*

Necrotic lesions at 2–10 ppm.

Growth retardation at 0.5 ppm.

*Stern, Air Pollution, Vol. I, pg. 414.

## IMPACT OF FEDERAL BUDGET CUTS AND IMPOUNDED FUNDS

Mr. GRAVEL. Mr. President, analyzing the impact of the Federal budget on a particular city or State is a very demanding and complicated process. This is especially true this year because of the many program transfers and phaseouts, and the "phasein" of proposed revenue-sharing programs.

However, such analyses are very important when considering the budget because they allow us to study the impact of budget changes on particular projects and local programs. This type information is needed to supplement aggregate budget considerations. To talk in terms of cutting millions and billions of dollars from programs is meaningless unless we know how such cutbacks affect citizens at the local level. When working with billion dollar programs, it is often easy to lose sight of the fact that cutting a program by any amount means that some citizens that previously received aid from the program, whether it be a single individual or the entire population of a city, will no longer do so.

The human resources committee of the Anchorage League of Women Voters has prepared an analysis of the impact of several sections of the proposed budget on programs in Alaska, particularly in Anchorage, our largest city. This report, compiled by a bipartisan group of individuals with insight into Federal program operations in Anchorage, illustrates the adverse impact of proposed

social program budget cuts on programs, projects, and people at the local level.

I ask unanimous consent, Mr. President, that a copy of this study, and the letter transmitting it to me, be printed in the RECORD.

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

LEAGUE OF WOMEN VOTERS,
*Anchorage, Alaska, March 21, 1973.*

Hon. MIKE GRAVEL,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR GRAVEL: The Human Resources Committee of the Anchorage League of Women Voters has compiled the enclosed information regarding the impact of federal budget cuts and impounded funds. The three basic areas concerned are Title IVa and XVI, housing and related community development, and the loss of community action agencies and related OEO functions, as well as uncategorized programs listed under "other".

Anchorage and Alaska already hard hit by Title IV and XVI cuts now face social and economic disaster with the recent federal budget cuts. Many of these programs must find separate funding which is hardly available at this time, or cease to exist. In addition, 46 persons locally and roughly 300 persons throughout the state will lose their jobs, in many cases, just one step up from the welfare rolls. Every place we have thought of turning seems to be a dry hole. *Revenue sharing is not the answer.* Not only does Alaska always lose because of its smal population (grossly out of proportion to its many problems), but we have found that municipalities which are philosophically inclined to spend its revenue sharing monies on social service programs cannot afford to do so. Those which seem best able to afford such programs are not philosophically inclined to do so.

This is but the tip of the iceberg. When the construction season descends upon us, the whole state will be in bad shape. Our concern is great as we are certain yours is. How is Alaska going to make up for these cuts? What are you planning to do about them on a federal level? We are most willing to assist you in any way possible in order that these funds so necessary to Alaska be recouped.

Sincerely,

ANN GORSUCH,
*Chairman.*

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IMPACT OF FEDERAL BUDGET CUTS AND IMPOUNDED FUNDS

*Title IVA and XVI:* Virtually all state/federal matching funds for day care, which even affects some private agencies. Day care, just getting off the ground, is now floundering badly. Whole geographic areas go unserved, as do most low income families.

Local and statewide resources were just being mobilized on alcoholism, worse in Alaska than any other state. Federal matching funds were to establish rehabilitation and work programs, therapy and dry out facilities. A new uniform alcoholism act, passed in the 1972 Legislature, enabled alcoholism to be treated as a disease.

Drug information and rehabilitation programs, utilizing federal matching funds, have been cut. Over two years of cooperative work of 32 different groups and agencies is shot down.

Several smaller programs, but vital to the lower income Alaskan, were terminated, e.g. a homemaker program which assists families in social or financial crisis; public health programs including planned parenthood and VD clinics.

Of the anticipated $20 million in federal matching funds, Alaska lost over $16 million. The state is unable to financially supplement these losses. A list of Title IVA/XVI contracts is attached.

OEO & COMMUNITY ACTION

Alaska has two community action agencies, one local here in Anchorage, and one statewide, known as Rural CAP, with a skeleton administration in Anchorage. We also have state wide legal services (OEO) which tends to get the cream of OEO poverty lawyers. There are other smaller programs throughout the state, most of which have been enormously successful considering the remote regions some of them work in. They include the Alaska Village Electrical Cooperative. Community Enterprise Development Corporation (which is notable for the Native cooperatives its helped establish, laying the groundwork for the Native Land Claims), the Juneau Model Cities housing program, dental care in villages, the Bethel pre-maternal care unit, and a Native alcoholism program.

The local CAP, which has existed in Anchorage for 7 years, acts as grantee for Head Start, the Older Persons Action Group, Alcoholism Honor Farm, Alcoholism family counseling, the Urban Native Center, the Aleskind Workshop, the Native Airport Assistance Center, and a Family Planning program. The Community Action Agency also provides direct services in housing referral (the only such program in Anchorage), emergency food and medical services, information and assistance on welfare and food stamps problems, and essentially is the only lifeline the poor have to the remainder of the community. As an example, the CAA organized the first effective Tenants Action group which succeeded not only in getting local health department officials to cite over 400 violations of local health codes, but in getting plenty of publicity in the local media concerning violations, and further taking the violations to court. The Action group is currently working to establish a Tenant-Landlord Relationship Act in the state legislature. See table attached.

*Housing and related community development*

(These figures relate to Anchorage only)

Water and sewer grants (water, $3.4 million; Sewer, $6.5 million). Huge areas of the borough (county) do not have on-site water and sewer facilities. We are only now in the process of getting same. VA and FHA will not approve building in areas without on-site water and sewer. Hence, our building boom will come to an abrupt halt, with all the attendant problems of unemployment (already averaging 15% and seasonally as high as 35%). Also we have no secondary sewage treatment in the whole state. Anchorage only got its first primary treatment facility last year. The local government rested heavily on federal assistance to continue its programs.

Public facility loans: Many planned public facilities, some already bonded, have been cut, including civic and recreation centers.

Open space land programs: A $3.5 million land acquisition program (already bonded) which depended upon federal sharing, has been halted.

All FHA 235 monies have been stopped. There has been an overwhelming demand for 235 housing in Anchorage because of cost of housing (materials, labor, maintenance) is astronomically high. In the last 6 months 400 families qualified for 235 housing.

Existing occupied units, 600.

Projected to 6/74, 170.

Monies lost to 6/74, ——.

170 at $34,000, $5,780,000.

All FHA 236 monies stopped. The demand for 236 housing is great. Presently 2,000 families are eligible. Existing units total approximately 900 with 840 proposed units lost due to loss of funding.

Rent supplement money cut. Anchorage has over 50% rental units. Considering unemployment figures already cited, these supplements are needed.

We have a month to month waiting list for low-rent public housing of over 400 families. All monies for such housing have been cut.

There is a crying need for single and married student housing for a fast growing local college campus. The state cannot afford to fund entirely. Projected units needed by 1980 are 1600—presently there are none.

Finally, the local school district, with 35,000 students and a budget of $50 million, will lose federal impact funds in the amount of $1 million, the balance of this school year and $1.6 million next year with a projected budget of $70 million. Due to the heavy concentration of federal employees, we are one of the hardest hit areas in the nation. The local tax payer is having to bear the brunt of this cut, along with generating $19 million of the school budget, double the amount previously generated.

The following is a list of 1972 Title IVA/XVI contracts and the total amounts of funding according to geographical census division areas:

*Total cost of area of service(s)*

| | |
|---|---|
| Statewide and regional: | |
| Alaska homemakers, home health aide | 265,000 |
| Alaska homemakers, nutrition | 38,100 |
| Alaska legal services | 160,000 |
| Anchorage Community College, staff development | 85,600 |
| Department of Education, Ak. Skill Center | 244,000 |
| Department of Education, preschool consultant | 40,000 |
| Department of Education, vocational rehabilitation | 150,000 |
| Division of Corrections, services | 2,920,000 |
| Division of Corrections, volunteer training | 38,500 |
| Department of Law, attorney general | 99,890 |
| Division of Public Health, crippled child. Transportation | 100,000 |
| Division of Public Health, speech/hearing | 25,000 |
| Easter Seal Society-Directory social services | 38,220 |
| Films North Inc | 580 |
| Office of Comprehensive Planning, DHSS | 32,000 |
| Pioneers home | 1,526,900 |
| Richison, services for aging | 111,900 |
| RurALCAP, Alcoholism Training (Sub) [1] | 30,500 |
| Seattle Consortium, Aging Study | 103,600 |
| SEACAP, Rural Day Care | 78,400 |
| State operated schools, early child development | 608,000 |
| Tanana chiefs conference | 100,000 |
| University of Alaska, Center of Alcoh./Addict-Sub | 64,000 |
| Youth employment services | 40,000 |
| Total | 6,910,190 |
| Anchorage (census division 2: | |
| Alaska children's services, day care | 68,000 |
| Anchorage, Community College, day care | 80,000 |
| Anchorage Council on Drug Aid | 60,000 |
| ARCA, sheltered workshop | 20,000 |
| Boys Club of Alaska | 30,000 |
| Catholic charities, Anchorage | 24,000 |
| Chugiak children's services, day care | 5,000 |
| Chugiak children's services, training | 9,500 |
| City of Anchorage, parks and recreation | 385,700 |
| GAAoroHD, community services | 1,900,000 |
| GAABoroHD, council on Alcoholism (sub) | 103,700 |
| Diagnostic team, Alcoholism (sub) | 142,300 |

[1] Sub refers to sub-contracts through the office of alcoholism.

| | |
|---|---|
| Offender rehab unit (sub) | $31,500 |
| Phoenix club (sub) | 66,100 |
| Salvation Army detox. center (sub) | 559,900 |
| Salvation Army, Halfway Houses (sub) | 27,600 |
| Studio Club (sub) | 70,500 |
| GAA community action agency, day care study | 10,000 |
| Total | 3,593,300 |

TABLE OF AFFECTED PROGRAMS

(NOTE.—This information is by no means exhaustive but is rather that which is available as of this date, Mar. 23, 1973.)

Sources of information in this table include: Rural Community Action Agency, Greater Anchorage Area Community Action Agency, Alaska Federation of Natives, Alaska Urban Native Center, Cook Inlet Native Association, Welfare Rights Organization.

PROGRAM BUDGET AND DESTINY OF PROGRAM (WHERE KNOWN)

*Rural Community Action*

"Versatile money" (basically administrative and for com'y org.) $875,000, lost.

OEO Program

Copper River Dental Program, $70,000, fate unknown.

Kodiak Aging, $53,000, fate unknown.

Aleutian Planning Commission, $50,000, fate unknown.

Training Program, $30,000, fate unknown.

H.E.W. Programs: (administration by OEO)

Headstart, $813,800, transferred to HEW.

Alcoholism program, $100,000, might be picked up by state Health and Social Services.

Parent Child Center, $185,520, H.E.W.?

Pre-school Handicap Program, $16,000, H.E.W.?

Other

State Department of Alcoholism Program, $18,000, fate unknown.

Action Grant (15 Vista Vols.), $15,000, Administration says it will incease, but under which agency?

*Urban Community Action (these figures are for Anchorage)*

Administrative Services (for administering all programs), $90,000, lost . . . some chance of being picked up at the local level.

O.E.O. Programs: Housing referral, emergency food/medical services, assistance re welfare and food stamps, tenant action, $140,000, lost . . . some chance of being picked up at the local level.

HEW (Administration by OEO)

Head start, $212,500, transferred to HEW.

Older person's action, $60,900, transferred to HEW.

Family planning, $25,000, transferred to HEW.

Honor farm alcoholism program, $75,000 or $50,000, probably transferred to HEW.

Indian Programs

Urban Native Center: Aleskind workshop, airport assistance program, English classes, social services, $150,000, possibly transferred to HEW.

Indian manpower program, $30,000, unknown.

Supplemental services, drivers' training, $250,000, over 16 months, probably will not be refunded.

Other

Economic Development Administration, received $28,500,000 over last 6 years. $5,000,000 in applications pending; lost.

Model cities, $930,000 lost.

Indian Education Act, $11,000,000 impounded funds.

Alaska Village Electrical Cooperative, jump from 2 to 5 percent in interest on loans makes them prohibitive.

Manpower: Neighborhood Youth Corps and Operation Mainstream losing $1,500,000; Public employment program, uknown.

Indian housing program, funds frozen—6,000 homes promised over 5-year period, not one built yet.

Environment quality—Greenbelt program, $3,000,000 in frozen funds.

Regional medical, $500,000 lost, was due to go up.

Hill-Burton, $1,000,000 lost.

*Welfare*

Although figures are presently unavailable, we know that with the Administration's new guidelines, the vital social service programs which accompany the categorical assistance grant programs are no longer mandatory and may well not be picked up by the State.

Also, with the transfer of Aid to the Aged, Blind and Disabled to the Social Security Administration, there is a minimum payment of $130/person/month, with no assurance that the State will pick up the remainder (grants have been $250). Furthermore, eligibility requirements have been tightened so that the aged must be 65 or over, the blind must be legally blind (not able to be rehabilitated), and the disabled *totally* disabled. What is more drastic, still, is that these helpless people are no longer eligible for food stamps.

Eligibility for AFDC will be determined now every three rather than every six months, a real problem in Alaska where communication with the Bush sometimes takes a long time. The 179 fee agents throughout the state are being eliminated, further aggravating this situation. Also, state cuts in the food stamp budget may disqualify Alaska for food stamps altogether, a disastrous possibility for many and especially for much of the bush population which is almost wholly dependent on them during part of the year.

Lastly, fair hearings, which have been welfare recipients only real tool for dealing with the Administration, have been abolished, leaving these people more impotent than before.

## IMPLEMENTATION OF ADVISORY COMMITTEE REFORM ACT

Mr. PERCY. Mr. President, the Congress has recently received the 1973 annual report of the President on Federal advisory committees. This report was prepared pursuant to the Federal Advisory Committee Act which became law last October 6.

As an author of this law along with Senator METCALF and Senator ROTH, I am pleased that we now have this first annual report, prepared by the Office of Management and Budget. The report is required by the act to be submitted to Congress at the end of March each year.

The OMB states in the report that by means of a thorough review during 1973, it hopes to reduce the current number of Federal advisory committees. The overlapping jurisdictions and questionably high cost of advisory committees was emphasized repeatedly in hearings on the measure held by the Intergovernmental Relations Subcommittee of the Government Operations Committee. The report reveals that three of the present Presidential advisory committees—the National Advisory Council on Adult Education, the National Advisory Council on Extension and Continuing Education, and the National Advisory Council on Supplementary Education Centers and Services—appear to have overlapping responsibilities, and that the 21 Presidential committees alone cost the Federal Government over $4 million in 1972. I would also point out that the total 1972 cost estimated for all Federal advisory committees—over $25 million—does not reflect the thousands of man-hours of time that Federal Government employees devote to working with these committees. If such costs were included, I feel certain that the total taxpayer cost of these committees would be much, much higher.

It is the hope and expectation of those of us in the Congress who worked for enactment of the Federal Advisory Committee Act, that a meaningful reduction in the number of such committees and in their cost to the Federal Government can be realized during 1973.

Implementation of the Federal Advisory Committee Act will be very helpful in creating an orderly new reporting and monitoring system for advisory committees. The act will, I believe, contribute significantly to the combined efforts of the executive and legislative branches to streamline the Federal Government by eliminating unnecesary Federal expenditure. We look forward with interest to the progress I am sure next year's report will reflect.

Mr. President, I ask unanimous consent that the summary of the text of this report be included at this point in the RECORD.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
*Washington, D.C., March 29, 1973.*

Memorandum for the President

Subject Annual report of Federal advisory committees to the Congress

In accordance with the provisions of the Federal Advisory Committee Act, P.L. 92-463, and Executive Order No. 11686, the first annual report to the Congress has been prepared. This report is due March 31, 1973, and is enclosed for your transmittal to the Congress.

ANNUAL REPORT OF FEDERAL ADVISORY COMMITTEES

This is the first annual report for transmittal to the Congress, as required by the Federal Advisory Committee Act (P.L. 92-463), "on the activities, status, and changes in the composition of advisory committees in existence during the preceding calendar year." It presents considerable information about Federal advisory committees that was not available heretofore.

At the end of calendar year 1972, under the definition of the Act, more than 1400 Federal advisory committees were in existence under the jurisdiction of more than 50 executive branch agencies.

A significant part of the Federal Government's business is conducted with the assistance of advisory committees composed of experts from the public sector. Such committees have been used since the early days of the Republic—President Washington appointed the first advisory committee to assist him in dealing with the Whiskey Rebellion. Thereafter, advisory committees were created and operated to provide the executive branch with expertise from private citizens to aid in policymaking in the many areas of Government.

Over the years, the number of advisory

committees has increased substantially, due to the initiative of both the executive and legislative branches. This growth led President Kennedy to issue an executive order (11007) in February 1962 establishing regulations for their use. Further, experience with such committees led the President to issue an executive order (11671) in June 1972 which rescinded earlier advisory committee regulations and established a centralized management system. During the time the executive branch was establishing these new procedures, the House Government Operations Subcommittee on Legal and Monetary Affairs and the Senate Government Operations Subcommittee on Intergovernmental Relations were examining advisory committee management. Based on their examination, the Congress passed the Federal Advisory Committee Act (P.L. 92-463) which the President approved and signed on October 6, 1972.

Of the 1439 advisory committees in existence on December 31, 1972, 251 or about 18 percent were created by statute. During calendar year 1972, 211 new committees were created of which 19 were statutory. In the same year, 187 committees were terminated, making a net gain of 24 committees. The Act's applicability is broader than that of previous advisory committee regulations, and because of that, the numbers reported are not directly comparable with those previously provided to the Congress (for example, subcommittees are now reported individually: in 1972 the Federal Power Commission established two new committees having 28 subcommittees—a total of 30 new committees). In the current calendar year, we expect to reduce advisory committees to the minimum essential number.

The Federal costs for these committees, as reported by the individual agencies, totaled $25,215,882. Federal costs for individual committees in calendar year 1972 varied widely, ranging from no Federal cost for a few committees to $1,750,000 for the Department of Justice National Advisory Commission on Criminal Justice Standards and Goals. The average annual cost per committee in calendar year 1972 was $15,508.

The greatest numbers of committees were concentrated under the jurisdiction of 12 departments and agencies as follows:

| | |
|---|---|
| Health, Education, and Welfare | 367 |
| Agriculture | 172 |
| Interior | 126 |
| Defense | 95 |
| Commerce | 76 |
| Small Business Administration | 66 |
| Transportation | 55 |
| Commission on Civil Rights | 51 |
| Federal Power Commission | 47 |
| Labor | 46 |
| State | 42 |
| National Science Foundation | 41 |

The tabulations which follow present summary data on committee numbers and costs for the individual agencies for calendar year 1972. It should be pointed out that these data summarize advisory committee activities before the Act became effective, and that as a result, the data are subject to minor variations. Through the Committee Management Secretariat of the Office of Management and Budget, each agency has been required to submit its own annual review of advisory committees by July 2, 1973.

The annual review of each advisory committee is to determine—

(1) whether such committee is carrying out its purpose;

(2) whether, consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;

(3) whether it should be merged with other advisory committees; or

(4) whether it should be abolished.

The results of this review will be included in the next annual advisory committee report to the Congress.

In addition, the Office of Management and Budget has issued committee management guidelines to all executive branch departments and agencies. These guidelines were issued through two documents: (1) OMB Circular A-63 on Advisory Committee Management and (2) a joint OMB/Department of Justice Memorandum on Implementation of the Federal Advisory Committee Act. These documents were issued for execution by each agency pending their review by all agencies and their reproduction in final form. They were published in the Federal register for public comment, as well.

The detailed information required by Sec. 6(c) of the Act is forwarded herewith, under separate cover, to the Congress and the Library of Congress. This detailed information approximates 6,000 pages of material. For reasons of national security, detailed information concerning one Department of Defense committee is not included in this report. Members of the public desiring information concerning specific committees may obtain it from the Library of Congress, or from the agency having jurisdiction over the committee.

ADVISORY COMMITTEE—SUMMARY DATA FOR CALENDAR YEAR 1972

| Agencies | Numbers current, Dec. 31, 1972 | Numbers statutory, Dec. 31, 1972 | Numbers terminated, calendar year 1972 | New committees, calendar year 1972 | | Changes in numbers, calendar year 1972 | Total cost | Average cost |
|---|---|---|---|---|---|---|---|---|
| | | | | Total numbers | Numbers statutory | | | |
| Presidential advisory committees [1] | [2](21) | (12) | NA | (20) | (1) | NA | ($4,214,233) | ($200,678) |
| Executive Office of the President: | | | | | | | | |
| Office of Management and Budget | 4 | 0 | 0 | 0 | 0 | 0 | [3]386,500 | 96,625 |
| Office of Emergency Preparedness | 16 | 0 | 0 | 0 | 0 | 0 | 15,582 | 974 |
| Council of Environmental Quality | 3 | 0 | 1 | 1 | 0 | 0 | 9,300 | 3,100 |
| Office of Telecommunications Policy | 1 | 0 | 0 | 0 | 0 | 0 | 5,700 | 5,700 |
| Office of Consumer Affairs | 1 | 0 | 0 | 0 | 0 | 0 | 25,000 | 25,000 |
| Office of Drug Abuse Prevention | 1 | 1 | 0 | 0 | 0 | 0 | 180,000 | 180,000 |
| Office of Economic Opportunity | [4]31 | 0 | 0 | 27 | 0 | 27 | 42,950 | 1,385 |
| Departments: | | | | | | | | |
| Agriculture | 172 | 80 | 46 | 5 | 1 | −41 | 328,260 | 1,506 |
| Commerce | 76 | 4 | 7 | 1 | 0 | −6 | 1,318,522 | 15,887 |
| Defense | [5]95 | 6 | 14 | 16 | 0 | 2 | 2,531,338 | 23,438 |
| Health, Education, and Welfare | 367 | 45 | 49 | 69 | 8 | 20 | 10,355,403 | 24,893 |
| Housing and Urban Development | 4 | 4 | 1 | 1 | 0 | 0 | 64,658 | 4,932 |
| Interior | 126 | 78 | 3 | 9 | 4 | 6 | 472,280 | 3,661 |
| Justice | 7 | 3 | 1 | 4 | 4 | 3 | [6]1,781,000 | 222,625 |
| Labor | 46 | 6 | 2 | 4 | 0 | 2 | 968,691 | 21,058 |
| State | 42 | 0 | 5 | 3 | 0 | −2 | 310,162 | 6,599 |
| Agency for International Development | 5 | 0 | 0 | 1 | 0 | 1 | 167,500 | 33,500 |
| Transportation | 55 | 5 | 11 | 5 | 0 | −6 | 537,341 | 8,142 |
| Treasury | 29 | 1 | 2 | 0 | 0 | −2 | 27,958 | 1,864 |
| Independent agencies: | | | | | | | | |
| Administrative Conference of the United States | 1 | 1 | 0 | 0 | 0 | 0 | 450,000 | 450,000 |
| Atomic Energy Commission | 12 | 2 | 0 | 0 | 0 | 0 | 1,084,200 | 90,350 |
| Civil Aeronautics Board | 2 | 0 | 3 | 0 | 0 | −3 | 4,365 | 873 |
| Environmental Protection Agency | 20 | 3 | 6 | 8 | 1 | 2 | 598,416 | 23,016 |
| Export-Import Bank | 1 | 1 | 0 | 0 | 0 | 0 | 24,237 | 24,237 |
| Federal Communications Commission | 7 | 0 | 0 | 3 | 0 | 3 | 255,261 | 36,466 |
| Federal Home Loan Bank Board | 1 | 1 | 0 | 0 | 0 | 0 | [7] | |
| Federal Mediation and Conciliation Service | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| Federal Power Commission | 47 | 0 | 8 | 30 | 0 | 22 | 261,923 | 4,762 |
| Federal Trade Commission | 3 | 0 | 0 | 0 | 0 | 0 | 5,200 | 1,733 |
| General Services Administration | 31 | 1 | 1 | 5 | 0 | 4 | 69,380 | 2,168 |
| Interstate Commerce Commission | 3 | 0 | 0 | 0 | 0 | 0 | 1,278 | 426 |
| National Aeronautics and Space Administration | 17 | 1 | 1 | 0 | 0 | −1 | 363,600 | 20,200 |
| National Credit Union Administration | 1 | 1 | 0 | 0 | 0 | 0 | 8,000 | 8,000 |
| National Endowment for the Arts | 11 | 1 | 0 | 0 | 0 | 0 | 365,975 | 33,270 |
| National Endowment for the Humanities | 6 | 1 | 0 | 0 | 0 | 0 | 255,460 | 42,532 |
| National Science Foundation | 41 | 1 | 10 | 7 | 0 | −3 | 231,297 | 4,535 |
| Railroad Retirement Board | 1 | 1 | 0 | 0 | 0 | 0 | 1,400 | 1,400 |
| Securities and and Exchange Commission | 2 | 0 | 8 | 10 | 0 | 2 | 9,725 | 972 |
| Small Business Administration | 66 | 0 | 0 | 0 | 0 | 0 | 120,631 | 1,828 |
| Smithsonian Institution | | | | | | | | |
| U.S. Arms Control and Disarmament Agency | 2 | 0 | 0 | 0 | 0 | 0 | 116,607 | 58,304 |
| U.S. Civil Service Commission | 8 | 5 | 1 | 1 | 1 | 0 | 132,458 | 14,718 |
| U.S. Information Agency | 2 | 1 | 0 | 0 | 0 | 0 | 84,130 | 42,065 |
| U.S. Postal Service | | | | | | | | |
| Veterans' Administration | 6 | 1 | 7 | 0 | 0 | −7 | 65,692 | 5,053 |

Footnotes at end of table.

ADVISORY COMMITTEE—SUMMARY DATA FOR CALENDAR YEAR 1972—Continued

| Agencies | Numbers current, Dec. 31, 1972 | Numbers statutory, Dec. 31, 1972 | Numbers terminated, calendar year 1972 | New committees, calendar year 1972 | | Changes in numbers, calendar year 1972 | Total cost | Average cost |
|---|---|---|---|---|---|---|---|---|
| | | | | Total numbers | Numbers statutory | | | |
| Selected committees, commissions, and councils: | | | | | | | | |
| Advisory Council on Historic Preservation | 1 | 1 | 0 | 0 | 0 | 0 | $439,600 | $439,600 |
| American Revolution Bicentennial Commission | 12 | 0 | 0 | 1 | 0 | 1 | 88,200 | 7,350 |
| Cabinet Committee on Opportunities for Spanish-Speaking People | 1 | 0 | 0 | 0 | 0 | 0 | 20,000 | 20,000 |
| U.S. Commission on Civil Rights | 51 | 0 | 0 | 0 | 0 | 0 | 669,202 | 13,122 |
| U.S. Water Resources Council | 1 | 0 | 0 | 0 | 0 | 0 | 1,500 | 1,500 |
| Total | 1,439 | 257 | 187 | 211 | 19 | 24 | 25,215,882 | 15,508 |

[1] These Presidential advisory committees are included in the numbers below for those agencies having jurisdiction.
[2] This number may be affected by some legal decisions on whether certain committees are Presidential advisory committees.
[3] $385,000 for Presidential Advisory Committee on Management Improvement.
[4] All abolished effective Feb. 1, 1973.
[5] Includes 28 committees under Secretary of Defense, Joint Chiefs of Staff, and Defense agencies; 16 committees under Air Force; 31 committees under Army; and 20 committees under Navy.
[6] $1,750,000 for National Advisory Commission on Criminal Justice and Standards.
[7] Cost of $74,893 not borne by Federal Government.

Note: Smithsonian Institution is excluded because the Smithsonian Secretary states "Given the Institution's independent authority and responsibility, it is believed that the boards and committees of the Smithsonian would not be deemed to fall within the purview of Public Law 92-463 since these groups provide advice and recommendations to the Board of Regents and the Secretary, neither of which are in the executive branch of the Federal Government."

U.S. Postal Service is excluded because its Assistant General Counsel states "In our opinion the Federal Advisory Committee Act—to the extent it grants certain advisory committee management review functions to the Office of Management and Budget to be exercised over Federal Government agencies—is one of the laws from which the Postal Service is exempted by virtue of the Postal Reorganization Act."

## MORE BELLS NEEDED

Mr. MANSFIELD. Mr. President, two of our distinguished colleagues, the Senator from Kentucky (Mr. HUDDLESTON) and the Senator from South Dakota (Mr. MCGOVERN), were in a meeting in EF-100 conducting Agricultural Subcommittee hearings at the time of the final vote on S. 352. They were not informed that the vote was in progress—there are no bells in that room—but had they been here, they would have voted in the affirmative on the bill (S. 352).

I make this statement just to make certain that the record is clear as to what their intentions were, and I also wish to state that, as a result of this experience, I have requested the Sergeant at Arms to look into the possibility of setting up a system of bells, such as we have in our offices and all committees have, in EF-100, so that Senators who hold hearings there hereafter will not be caught short because of something over which they had no control, but will be in a position to be able to attend to their responsibilities on the Senate floor like the rest of us.

I am sorry that it is not possible, in view of the circumstances, to ask that both Senator HUDDLESTON and Senator MCGOVERN be recorded as having voted "yea," but I do wish to state that had they been here, their votes would have been in the affirmative, and they were not here because of official duties connected with their membership on the Committee on Agriculture and Forestry.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

## ADJOURNMENT TO 10 A.M.

Mr. MANSFIELD. 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 the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 4:54 p.m. the Senate adjourned until tomorrow, Thursday, May 10, 1973, at 10 a.m.

## NOMINATIONS

Executive nominations received by the Senate May 9, 1973:

INTERNATIONAL ATOMIC ENERGY AGENCY

Gerald F. Tape, of Maryland, to be the Representative of the United States of America to the International Atomic Energy Agency, with the rank of Ambassador.

DEPARTMENT OF LABOR

Carmen Maymi, of the District of Columbia, to be Director of the Women's Bureau, Department of Labor, vice Elizabeth Duncan Koontz, resigned.

IN THE NAVY

Vice Adm. John V. Smith, U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

# HOUSE OF REPRESENTATIVES—*Wednesday, May 9, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*See that none render evil for evil unto any man; but ever follow that which is good, both among yourselves and to all men.*—I Thessalonians 5: 15.

Almighty God, our Heavenly Father, who art always ready to do exceeding abundantly above all that we ask or think, grant unto us Thy wisdom and the guidance of Thy spirit in the plans and purposes of this day. May we be men and women of vision, possessed by clear minds and courageous hearts as we endeavor to carry our responsibilities and to meet the daily challenge of arduous tasks.

Increase our faith and our hope as we seek to find right solutions for our national and our international problems. Keep alive our concern for the needy in our land and gird us with confidence that we may work to build a world fellowship ruled by high principles, enduring peace, and abiding good will.

Not for ourselves alone may our prayer be;
Lift Thou Thy Word, O God, closer to Thee.
Cleanse it from guilt and wrong, teach it salvation's song,
Till earth, as heaven, fulfill Thy Holy Will.
Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendment in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2246. An act to amend the Public Works and Economic Development Act of