SENATE—*Thursday, May 17, 1973*

The Senate met at 10 a.m. and was called to order by Hon. ADLAI E. STEVENSON III, a Senator from the State of Illinois.

PRAYER

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

Almighty God, judge of each day and our final judge, we thank Thee for this good land, its resourceful people, and its enduring institutions. We thank Thee for all who serve the Government competently and faithfully without blemish or stain. We thank Thee for citizens steeped in that righteousness which exalts a nation and will not falter or fail amid all change. Make this a time of cleansing and renewal of all that is best in our national life. And to Thee shall be all the glory and the praise.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 17, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ADLAI E. STEVENSON III, a Senator from the State of Illinois, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, May 16, 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.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations under New Reports, Department of the Treasury.

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

The ACTING PRESIDENT pro tempore. The nominations under New Reports, Department of the Treasury, will be stated.

DEPARTMENT OF THE TREASURY

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

Edward C. Schmults, of New York, to be General Counsel for the Department of the Treasury.

Donald C. Alexander, of Ohio, to be Commissioner of Internal Revenue.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

MOTOR VEHICLE DEFECT REMEDY ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 142, S. 355.

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

The assistant legislative clerk read as follows:

S. 355, to amend the National Traffic and Motor Vehicle Safety Act of 1966 to provide for remedies of defects without charge, and for other purposes.

The ACTING PRESIDENT pro tempore. 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 Commerce with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Motor Vehicle Defect Remedy Act".

SEC. 2. Section 108(a)(4) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1397) is amended to read as follows:

"(4) fail to furnish notification, fail to remedy any defect or failure to comply, fail to maintain records, or fail to meet any other obligation imposed upon any manufacturer, distributor, or dealer pursuant to section 113 of this Act.".

SEC. 3. Section 113 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1402) is amended to read as follows:

"DISCOVERY, NOTIFICATION, AND REMEDY OF MOTOR VEHICLE DEFECTS

"SEC. 113. (a) REQUIREMENT OF NOTICE.—For purposes of this section, the retreader of tires shall be deemed the manufacturer of tires which have been retreaded, and the brand name owner of tires marketed under a brand name not owned by the manufacturer of the tire shall be deemed the manufacturer of tires marketed under such brand name. Every manufacturer of motor vehicles or tires shall furnish notification to the purchaser of such motor vehicle or item of motor vehicle equipment, pursuant to subsection (b) of this section, if—

"(1) such manufacturer discovers that any motor vehicle or item of motor vehicle equipment produced by such manufacturer—

"(A) contains a defect and determines in good faith that such defect relates to motor vehicle safety; or

"(B) does not comply with an applicable Federal motor vehicle safety standard prescribed pursuant to section 103 of this Act; or

"(2) the Secretary determines, through testing, inspection, investigation, or research carried out pursuant to this Act, through examination of communications pursuant to subsection (c) of this section, or through other means, that any motor vehicle or item of motor vehicle equipment produced by such manufacturer—

"(A) contains a defect which relates to motor vehicle safety; or

"(B) does not comply with an applicable Federal motor vehicle safety standard prescribed pursuant to section 103 of this Act.

"(b) CONTENTS, TIME, AND FORM OF NOTICE.—(1) The notification required by subsection (a) of this section shall contain, in addition to such other matters as the Secretary may prescribe by regulation—

"(A) a clear description of the defect in any motor vehicle or motor vehicle equipment or of the failure to comply with any applicable motor vehicle safety standard;

"(B) an evaluation of the risk to traffic safety reasonably related to such defect or failure to comply;

"(C) a statement of the measures to be taken to remedy such defect or failure to comply;

"(D) a statement that the named manufacturer shall cause such defect or failure to comply to be remedied without charge pursuant to subsection (e) of this section;

"(E) the date when such defect or failure to comply will initially be remedied without charge and, in the case of tires, the final date when such defect or failure to comply will be remedied without charge pursuant to subsection (e) of this section; and

"(F) a description of the procedure to be followed in informing the Secretary whenever a manufacturer, distributor, or dealer fails or is unable to remedy without charge such defect or failure to comply.

"(2) The notification required by subsection (a) of this section shall be furnished within a reasonable time after—

"(A) the discovery of the defect or failure to comply by the manufacturer, pursuant to subsection (a)(1) of this section;

"(B) the Secretary's determination of the defect or failure to comply pursuant to subsection (a)(2) of this section or subsection (g) of this section, if applicable.

"(3) The notification required by subsection (a) of this section shall be accomplished—

"(A) by certified mail to—

"(i) the first purchaser (not including any dealer of such manufacturer) of the motor vehicle or motor vehicle equipment containing such defect or failure to comply,

"(ii) any subsequent purchaser of such vehicle or equipment to whom has been transferred any warranty thereon,

"(iii) any other person who is a registered owner of such vehicle or equipment and whose name and address is reasonably ascertainable through State records or other sources available to such manufacturer; and

"(B) by certified mail or other more expeditious means to the dealer or dealers of such manufacturer to whom such motor vehicle or motor vehicle equipment was delivered.

"(c) INFORMATION AND DISCLOSURE.—Every manufacturer of motor vehicles or tires shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the dealers of such manufacturer or to the purchasers of motor vehicle or motor vehicle equipment produced by such manufacturer regarding any defect in such vehicle or equipment which is sold or serviced. The Secretary shall disclose so much of any information referred to under this subsection, subsection (a) of this section, or section 112(a) of this Act to the public as he determines will assist in carrying out the purposes of this Act, but he shall not disclose to the public any information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, unless he determines that it is necessary to carry out the purposes of this Act.

"(d) RECORDS OF FIRST PURCHASER.—Every manufacturer of motor vehicles or tires shall maintain records of the names and addresses of the first purchaser (other than a dealer or distributor) of motor vehicles or tires produced by such manufacturer. The Secretary may establish, by order, procedures to be followed by manufacturers in establishing and maintaining such records, including procedures to be followed by distributors and dealers to assist manufacturers to secure the information required by this subsection except that the availability or not of such assistance shall not affect the obligation of manufacturers under this subsection. Such procedures shall be reasonable for the particular type of motor vehicle or tires for which they are prescribed.

"(e) REMEDY OF DEFECT OR FAILURE TO COMPLY.—If—

"(1) any motor vehicle (including any item of original motor vehicle equipment) or tire is determined by its manufacturer, pursuant to subsection (a)(1) of this section, to contain a defect or failure to comply which relates to motor vehicle safety; or

"(2) the Secretary determines, pursuant to subsection (a)(2) of this section, or under subsection (g) of this section, if applicable, that any motor vehicle or item of motor vehicle equipment contains a defect which relates to motor vehicle safety or does not comply with any applicable motor vehicle safety standard prescribed under this Act,

then, after the notification required by subsection (a) of this section is furnished as provided in subsection (b) of this section, the manufacturer of such motor vehicle or tire presented for remedy pursuant to such notification shall cause such defect or failure to comply in such motor vehicle (including any item of original motor vehicle equipment), such item of motor vehicle equipment, or such tire to be remedied without charge. In the case of a tire presented for remedy pursuant to such notification, the manufacturer of each such tire shall replace such tire without charge for a period up to sixty days after receipt of such notification or sixty days after replacement tires are available, whichever is later. In the case of a motor vehicle presented for remedy pursuant to such notification, if the defect or failure to comply cannot be adequately remedied, the Secretary shall require the manufacturer, at the manufacturer's option, either to—

"(A) replace such motor vehicle without charge with a new or equivalent vehicle, or

"(B) refund the purchase price of such motor vehicle in full less a reasonable allowance for depreciation.

The dealer or retailer who performs such remedy work without charge shall receive fair and equitable reimbursement for such work from such manufacturer. The requirement of this subsection that such remedy work be performed without charge shall not apply if a determination is made under subsection (g) of this section that the defect or failure to comply is de minimis, or if such motor vehicle or item of motor vehicle equipment was purchased by the first purchaser (not including any dealer of a manufacturer) more than eight calendar years before the manufacturer receives notification from the Secretary, pursuant to paragraph (1) of subsection (g) of this section, of defect or failure to comply.

"(f) APPROVAL AND IMPLEMENTATION OF REMEDY PLAN.—(1) The Secretary shall approve with or without modification after consultation with the manufacturer of such motor vehicle or tires, such manufacturer's remedy plan including the date when and the method by which the notification and remedy required pursuant to this section shall be effectuated. Such date shall be the earliest practicable one but shall not exceed sixty days from the date of discovery or determination of the defect or failure to comply pursuant to subsection (a) of this section or under subsection (g) of this section, if applicable, unless the Secretary grants an extension of such period for good cause shown and publishes a notice of such extension in the Federal Register. Such manufacturer is bound to implement such remedy plan as approved by the Secretary.

"(2) Upon application in writing by such manufacturer, the Secretary may approve any amendment or modification of such plan for good cause shown provided notice of such modification is reasonably publicized by such manufacturer. The Secretary shall cause each such application and the decision rendered on such application to be published in the Federal Register within five days of receipt or issuance. As used in the paragraph, 'good cause' means unavoidable delay due to strikes, catastrophe, or natural disaster.

"(g) PROCEEDINGS.—(1) The Secretary shall immediately notify such manufacturer of his determination under subsection (a)(2) of this section of the defect or failure to comply, and shall supply a statement of his reasons and the basis for the findings. Such determination, reasons, and findings shall be published immediately in the Federal Register. At the same time, the Secretary shall make available to the manufacturer and any interested person all information, subject to the provisions of subsection (c) of this section, upon which the findings are based. Within seven days after the manufacturer receives notification pursuant to this paragraph such manufacturer may file a petition to initiate a proceeding to establish to the satisfaction of the Secretary that—

"(A) such motor vehicle or item of motor vehicle equipment does comply with such standard or does not contain a defect which relates to motor vehicle safety; or

"(B) such defect or failure to comply is de minimis in its impact on the number of traffic accidents and deaths and injuries to persons resulting from traffic accidents.

A proceeding on such petition shall commence within twenty-one days of the date of the determination and such date shall be announced publicly. A record of the proceeding shall be maintained. The proceeding shall be structured to proceed as expeditiously as possible while permitting the manufacturer and all interested persons an opportunity to present their views. Participants shall be given a limited right to cross-examine experts on matters directly related to the issues of defect or failure to comply. For purposes of this subsection, 'a limited right to cross-examine' means that the Secretary may set such conditions and limitations on cross-examination as he deems necessary to assure fair and expeditious consideration of the contested issues. All testimony shall be presented by affidavit or orally under oath, pursuant to regulations issued by the Secretary, and the Secretary may require that persons with the same or similar interests appear together by a single representative. Within fourteen days of the conclusion of the proceeding, the Secretary shall issue his decision on the petition with a statement of his reasons. If such decision affirms the original determination of the Secretary, under subsection (a)(3) of this section, the Secretary shall direct such manufacturer to furnish forthwith the notification required by such subsection. The Secretary's decision and reasons shall be published immediately in the Federal Register.

"(2) Except as otherwise provided in this paragraph, any person who is aggrieved by the decision in a proceeding under this subsection may appeal a decision of the Secretary upon the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit. Such petition shall be filed within twenty days after the Secretary's decision. In any such review, the factual findings of the Secretary shall be sustained if supported by substantial evidence on the record considered as a whole. The Secretary shall file the record on which his findings are based within twenty days of the date the petition for review is filed. The court shall expedite the disposition of such petition for review. The Secretary's determination that a defect or failure to comply is or is not de minimis in its impact is not reviewable under this paragraph.

"(h) IMMINENT HAZARD.—(1) The Secretary may file an action against—

"(A) an imminently hazardous motor vehicle or item of motor vehicle equipment for seizure of such vehicle or equipment under paragraph (2)(B) of this subsection; and

"(B) a manufacturer, distributor, or dealer of such motor vehicle or item of motor vehicle equipment.

As used in this subsection, 'imminently hazardous' means a motor vehicle or item of motor vehicle equipment which presents immediate and unreasonable risk of death, serious illness, or severe personal injury.

"(2)(A) The court in which such action is filed shall have jurisdiction to declare such motor vehicle or item of motor vehicle equipment to be imminently hazardous and (in the case of an action under paragraph (1)(B) of this subsection) to grant (as ancillary to such declaration or in lieu thereof) such temporary or permanent relief as may be necessary to protect the public from such risk.

"(B) In the case of an action under paragraph (1)(A) of this subsection, the motor vehicle or item of motor vehicle equipment may be proceeded against by process of libel for the seizure and condemnation of such product in any district court of the United States within the judicial district in which such motor vehicle or item of motor vehicle equipment is found. Proceedings and cases shall conform as nearly as possible to proceedings in rem in admiralty.

"(C) An action under paragraph (1)(B) of this subsection may be brought in the district court of the United States for the District of Columbia or in any judicial district in which any of the defendants is found, resides, or transacts business. Process may be served on such defendant in any judicial district in which such defendant resides or may be found. Subpenas requiring the attendance of witnesses in such an action may run into any other district.

"(4) Notwithstanding any other provision of law, in any action under this subsection, the Secretary may direct attorneys employed by him to appear and represent him."

SEC. 4. Section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"There is hereby authorized to be appropriated for the purpose of carrying out the provisions of this Act not to exceed $46,773,000 for the fiscal year ending June 30, 1974."

Mr. MAGNUSON. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the committee report on S. 355.

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

REMARKS TO ACCOMPANY PASSAGE OF S. 355

The Motor Vehicle Defect Remedy Act (S. 355) would amend the National Traffic and Motor Vehicle Safety Act by empowering the Secretary of Transportation to require the remedy of a safety-related defect or failure to comply with a motor vehicle safety standard at no cost to the consumer. In addition, the bill would authorize $46,773,000 to be appropriated for implementation of the Act for the fiscal year ending June 30, 1974.

The major thrust of S. 355 is to empower the Secretary of Transportation to require that the manufacturer of a motor vehicle or an item of motor vehicle equipment (including tires) which contain a safety related defect or a failure to comply with a motor vehicle safety standard to remedy such defect or failure to comply without charge to the consumer. Under current law, the Secretary may require such manufacturer to send a defect notification to the first purchaser of such motor vehicle or item of motor vehicle equipment. However, under current law, repair at no cost is discretionary with the manufacturer.

In the case of a motor vehicle, the manufacturer would be required to actually remedy the defect or failure to comply. If such motor vehicle could not be adequately remedied, the Secretary would have the discretion to require the manufacturer to choose either to replace such motor vehicle without charge with a new or equivalent vehicle or to refund the purchase price of such motor vehicle in full less a reasonable allowance for depreciation.

In the case of tires, the manufacturer would have to replace the tire, at no cost, with no deduction for tread wear (as is the current industry practice). The consumer would have a period of 60 days from the date of notification or availability of replacement tires, whichever is later, to have the remedy work performed. This time-limitation provision is designed to encourage consumers to replace defective tires immediately instead of waiting until they are worn out before obtaining new tires.

Additionally, S. 355 precisely defines the administrative hearing procedure available to the manufacturer of a motor vehicle or item of motor vehicle equipment which has been declared by the Secretary to contain a defect or failure to comply. The procedure is designed to insure an expeditious consideration of the views and evidence of the manufacturer and other interested parties. Due to the nature of the potential risk to the public health and safety, it is imperative that this administrative proceeding not be delayed. Accordingly, the Secretary is vested with great discretion to control the proceedings.

Under the new procedure, if the Secretary determines that a defect or failure to comply exists, he immediately notifies the manufacturer of his determination and supplies a statement of his reasons and the basis for the findings. His determination, reasons and findings are published immediately in the Federal Register. Within 7 days after the manufacturer receives notification of the Secretary's determination, he may file a petition to initiate a proceeding to establish to the satisfaction of the Secretary that the motor vehicle or item of motor vehicle equipment does comply with a standard or does not contain a safety related defect or that the defect or failure to comply is *de minimis* in its impact on motor vehicle safety. The Secretary has 21 days within which to commence the proceeding.

A record of the proceeding shall be maintained. The proceeding shall be structured to proceed as expeditiously as possible while permitting the manufacturer and all interested parties to present their views. The Secretary shall afford participants a limited right to cross-examine experts on matters directly related to the issues of defect or failure to comply. However, the Secretary may establish such limitations on cross-examination as he deems necessary to assure fair and expeditious consideration of the contested issues. The Secretary must render his decision on the petition within 14 days of the conclusion of the proceeding. An opportunity for judicial review to the U.S. Court of Appeals for the District of Columbia is available to any person aggrieved by the decision at the proceeding.

In those cases where the risk to the public is obvious, S. 355 provides for a procedure whereby the Secretary can avoid the possibly time consuming procedures and act immediately to remove an obvious hazard by applying to a District Court for such temporary or permanent relief as may be necessary to protect the public.

Finally, the Committee has proposed to authorize appropriations of not to exceed $46,773,000 for the fiscal year ending June 30, 1974. The Administration has requested an open ended authorization in support of a request for appropriations of $35,630,000.

BACKGROUND AND NEED

Repair at no cost

Since the enactment of the National Traffic and Motor Vehicle Safety Act of 1966, over 36,000,000 motor vehicles have been recalled due to the presence of a safety related defect (including failures to comply with motor vehicle safety standards). The Motor Vehicle Safety Act currently empowers the Secretary of Transportation to declare that a safety related defect exists and to require that a notification be sent to the owners of the defective vehicles. But the Act does not require the manufacturer to remedy that defect at no cost to the consumer.

As the auto safety program in the Federal government matures, more and more vehicles are being recalled. Thus, in 1972, 12,000,000 cars were recalled—more than in any other single year. In fact, more vehicles were recalled last year than were built. Now that the nation has finally developed the capability of discovering defects in motor vehicles, we must do all in our power to insure that those defects are remedied; all of our efforts to locate safety related defects and warn consumers of their existence are wasted if the vehicle is not ultimately repaired. It must be as attractive and convenient as possible for a consumer to invest the energy and the effort to get his or her vehicle fixed. At stake is not only the welfare of the owner of the vehicle himself, but also other persons who might be injured as a result of the defect.

Our experience over the past six years demonstrated that owners of defective vehicles have a greater tendency to have their vehicles remedied if the the manufacturer absorbs the repair cost. Statistics compiled by the National Highway Safety Administration indicate that in recall situations where the manufacturer has absorbed defect repair costs, about 75% of those owners who received notification had the vehicle inspected, and repaired where necessary. On the other hand, in the Corvair heater recall, where the manufacturer refused to absorb the cost of remedy, only 7.6% responded to the warning.

Repair at no cost legislation is not new to the Senate. In 1969, the Senate adopted a proposal similar to S. 355. In the Conference Committee with the House, however, that provision was deleted in exchange for industry assurance that all safety related defects would be remedied at the manufacturer's expense whether or not such an obligation was mandated by legislation.

Generally, the automobile industry has honored that commitment. However, in the past 18 months, there have been two notable instances where that promise has been breached. In November, 1971, the National Highway Traffic Safety Administration declared that the heater on all 1960–68 Chevrolet Corvairs contained a safety related defect; the heater leaked poisonous fumes into the passenger compartment. The 680,000 owners of those cars were each asked to bear the cost of the repair—$150–$200 per vehicle—with no assurance the repair would last.

One year later, in November, 1972, the second breach occurred, this one involving a foreign manufacturer—Volkswagen of America. Approximately 3.7 million vehicles were involved. The windshield wiper system on all 1949–1969 Volkswagens was found to be defective in that a set screw loosend without warning, causing failure of the wiper system. Although Volkswagen sent notification letters to all known owners, the company only had the names of 220,000 of the 3.7 million owners. The manufacturer refused to absorb the remedy cost for even these vehicles.

This legislation is designed to insure that the consumer never again will be forced to pay for the repair of safety related defects. It codifies the right of the American consumer to have an automobile containing a safety related defect to be made safe by the manufacturer free of charge. The Committee believes that the requirement of remedy at no cost will also serve as an added inducement to consumers to put forth the time and effort to have an unsafe motor vehicle or item of motor vehicle equipment made safe.

The authorization

In recent years the Committee on Commerce has authorized on an annual basis a sum certain to be appropriated for the implementation of the National Traffic and Motor Vehicle Safety Act. As a result of continuous and thorough oversight activities by the Committee, sums not to exceed $46,773,000 have been proposed for authorization for the fiscal year ending June 30, 1974. This sum represents $11,710,000 more than the amount which the Office of Management and Budget requested for the National Highway and Traffic Safety Administration appropriation in fiscal 1974.

Even if all of these funds which the Committee proposes to authorize were appropriated, it would still represent a sum more than $10 million less than that which the National Highway Traffic Safety Administration requested from the Department of Transportation. The Committee has been informed that the NHTSA requested $58,198,000 from the Department for implementation of the National Traffic and Motor Vehicle Act. The Department requested only $50,612,000 from the Office of Management and Budget for the implementation of this Act. The OMB allowance amounted to only $35,063,000. Hence, the Committee's proposed authorization is a compromise between the amount which the Office of Management and Budget has concluded is necessary for implementation of the Act and that which the agency itself had requested. An analysis of the Committee's rationale for increasing the authorization above the amount requested for appropriation follows:

For the research and analysis functions under the Act, the NHTSA requested $40,730,000 for FY 1974 from the Department. The OMB allowance for these functions was $21,446,000. The Committee proposes to increase this amount by $9,750,000.

It is intended that $2,000,000 of this proposed increase be utilized for additional ac-

tivities in the area of accident investigation and data analysis. Specifically, it is to enable the agency to commence several studies to ascertain the effect of motor vehicle safety standards on highway safety and to plot the future course of federal regulation in this area. The questions which need to be answered are as follows:

(1) Has each standard that has been promulgated by the NHTSA been cost beneficial?

(2) Does each standard accomplish the goal for which it was developed?

(3) Is there a need to amend any standard so that it more effectively achieves the goal for which it is intended?

(4) What standards must be promulgated in the next decade which will be both cost beneficial and will fulfill the mandate of the Motor Vehicle Safety Act?

The Committee believes that the answers to these questions must be ascertained for several reasons. First, the consumer should not be asked to pay for safety items which are not performing their mission. Second, if the consumer can be protected by the modification or addition of a motor vehicle safety standard at a cost which is commensurate with the degree of protection, then he is entitled to be so protected. Third, the manufacturers are entitled to notice of necessary design modifications which will be required in order to comply with future motor vehicle safety standards.

The Committee proposes to authorize five additional personnel and support for these new accident investigation and data analysis functions.

In the area of crash survivability, the Committee proposes to authorize an additional $4,490,000. Three million dollars of this amount is proposed to be utilized for additional passive restraint field testing. Currently, motor vehicles equipped with airbags have accumulated over 12 million miles on the highways with great success. The bags have proven to be both reliable and life saving. However, the current fleet of only 2,000 vehicles should be increased to insure the efficacy of the airbag. Accordingly, the additional $3 million is intended to be used by the NHTSA to equip General Services Administration vehicles with airbag systems.

In addition, the Committee proposes to authorize an additional $1 million for vehicle structures research. Many members of Congress are disturbed with the lethargy with which the Administration has pursued the area of school bus safety. It has only been within the last few months that the agency has proposed its first comprehensive standards relating to school buses. However, these pertain only to interior structures and much still needs to be done in this area. Standards have yet to be proposed relating to structural integrity, exhaust systems, fuel tank location, braking systems, and the like. Accordingly, the additional $1 million proposed for authorization for vehicle structure research is intended to be utilized in the school bus area.

Finally, the Committee proposes to authorize $100,000 for a study to determine the desirability of requiring lap belt systems in motor vehicles equipped with air bags. Motor Vehicle Safety Standard 215 which may require a passive restraint system, such as an airbag, in all motor vehicles manufactured after the Fall, 1975 does not call for the installation of such lap belts. The Committee believes that in the interest of public health and safety, a study to determine the wisdom of such a deletion is necessary.

Finally, the Committee proposes to authorize an additional 15 personnel and support for the functions outlined in the area of crash survivability.

In its request for appropriations, the NHTSA requested no funds for motor vehicle-in-use activities. This deletion was based on the rationale that all motor vehicle-in-use activities would be merged with the functions under the Motor Vehicle Information and Cost Savings Act. When the Committee authorized funds for this act last year, it did not intend the NHTSA to abandon all of its other motor vehicle-in-use functions. The agency has only recently proposed motor vehicle-in-use standards which were mandated by section 108(b)(1) of the Motor Vehicle Safety Act and which are now five years overdue. Accordingly, the Committee proposes to authorize $2 million for vehicle degradation studies and $1 million for additional work to establish the motor vehicle-in-use standards. Finally, the Committee proposes to provide five additional personnel for the motor vehicle-in-use function.

The NHTSA requested $11,576,000 for the Motor Vehicle Program for FY 1974. The Office of Management and Budget allowance for this function was only $8,138,000. The Committee proposes to increase this amount by $1,830,000. Specifically, the Committee proposes to authorize $600,000 for cost and lead time analysis activities. President Nixon's ad hoc committee on the "Cumulative Regulatory Effects on the Cost of Automotive Transportation" (RECAT) criticized the NHTSA for failure to undertake sufficient cost and lead time analysis. The RECAT committee said that:

"In particular, careful consideration of and, where possible, demonstration of technical feasibility and early adequate, cost benefit analysis performed *prior* to the publication of the notice of proposed rulemaking, rather than later, would serve to demonstrate to automobile manufacturers, the public and the regulators themselves that the proposed regulation was in fact likely to be both cost beneficial and practical."

Cost and lead time analysis is vitally important to the manufacturer so that he may plan in advance, changes in design and construction of motor vehicles in order to comply with motor vehicle safety standards. Although there is growing indication that the NHTSA needs greater access to manufacturer cost information, comprehensive cost and lead time analysis must be undertaken regularly to prevent delay in implementation of standards.

In last year's authorization, the Committee proposed that a contingency fund be available to the agency for defect investigation and standard enforcement work. The Committee has proposed again this year a contingency fund of $1 million. This fund would be utilized when additional work is needed to expedite a defects' investigation which may present a substantial threat to the motoring public or when demands upon the Office of Defect Investigations are too strenuous to effectuate all of the pending investigations. Inherent in the establishment of this contingency fund is the emphasis that the committee places on the need for the NHTSA to investigate and take appropriate action in any potential defect situation.

The Committee also proposes to authorize $100,000 for a study to determine the effectiveness of the defect investigation and standard enforcement activities of the NHTSA. In the last two years, there has been substantial criticism that the Office of Defect Investigations is not effectively utilizing its resources and information in conducting defect investigations. The proposed funds would be used to consult outside sources on the most effective approach to defect investigation and standard enforcement in the motor vehicle safety area. For the purposes of the increased activities in the area of defect investigation and standard enforcement, the Committee additionally proposes to authorize five new positions in the Motor Vehicle Program.

Finally, the Committee proposes to authorize five additional positions for the Office of the General Counsel. Under the repair-at-no-cost provisions of S. 355, burdens on this office may increase. The Office of the General Counsel is now severely understaffed and the addition of five attorneys would expedite legal matters within the agency.

Mr. MAGNUSON. I urge my colleagues to take favorable action on this important piece of consumer safety legislation.

The amendment was agreed to.

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

The title was amended, so as to read: "A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to promote traffic safety by providing that defects and failures to comply with motor vehicle safety standards shall be remedied without charge to the owner, and for other purposes."

PERMISSION FOR IMMEDIATE RETIREMENT OF CERTAIN FEDERAL EMPLOYEES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 145, H.R. 6077.

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

The assistant legislative clerk read as follows:

H.R. 6077, to permit immediate retirement of certain Federal employees.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, I move to strike out all after the enacting clause and insert in lieu thereof the text of S. 1804, Calendar No. 144, the companion Senate bill, as reported with committee amendments.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 6077) was read the third time and passed.

The title was amended, so as to read: "A bill to permit immediate retirement of certain Federal employees, and for other purposes."

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the bill, S. 1804, be indefinitely postponed.

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

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum and ask that the time be charged to the time of the next Senator to be recognized.

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

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. 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.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time be charged against the time allotted to me.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. I ask unanimous consent that the order for the quorum call be rescinded.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORTS ON APPROVAL OF CERTAIN LOANS BY RURAL ELECTRIFICATION ADMINISTRATION

A letter from the Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, on the approval of a loan to Minnkota Power Cooperative, of Grand Forks, N.D. (with accompanying papers). Referred to the Committee on Appropriations.

A letter from the Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, on the approval of a loan to South Mississippi Electric Power Association, of Hattiesburg, Miss. (with accompanying papers). Referred to the Committee on Appropriations.

A letter from the Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, on the approval of a loan to Dairyland Power Cooperative, of LaCrosse, Wis. (with accompanying papers). Referred to the Committee on Appropriations.

PROPOSED LEGISLATION FROM FEDERAL POWER COMMISSION

A letter from the Chairman, Federal Power Commission, transmitting a draft of proposed legislation to amend section 14 of the Natural Gas Act (with an accompanying paper). Referred to the Committee on Commerce.

PROPOSED CONTRACTS FOR CERTAIN RESEARCH PROJECTS

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with Phyaixa International Co., San Leandro, Calif. (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with Foster-Miller Associates, Inc., Waltham, Mass. (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION FROM ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

A letter from the Director, Administrative Office of the United States Courts, transmitting a draft of proposed legislation to provide for the appointment of legal assistants in the Courts of Appeals of the United States (with an accompanying paper). Referred to the Committee on the Judiciary.

A letter from the Director, Administrative Office of the United States Courts, transmitting a draft of proposed legislation to provide for the appointment of transcribers of official court reporters' transcripts in the United States District Courts, and for other purposes (with an accompanying paper). Referred to the Committee on the Judiciary.

REPORTS OF THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATION FOR CERTAIN ALIENS

A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports on third preference and sixth preference classification for certain aliens (with accompanying papers). Referred to the Committee on the Judiciary.

PROPOSED AMENDMENTS TO CERTAIN PROSPECTUSES FOR PUBLIC BUILDING PROJECTS

A letter from the Acting Administrator, General Services Administration, transmitting, pursuant to law, proposed amendments to certain prospectuses for public building projects (with accompanying papers). Referred to the Committee on Public Works.

PROPOSED PROSPECTUS RELATING TO FEDERAL CENTER AT HYATTSVILLE, MD.

A letter from the Acting Administrator, General Services Administration, transmitting, pursuant to law, a prospectus relating to the proposed extension of the leasehold interest for Federal Center No. 1, at Hyattsville, Md. (with accompanying papers). Referred to the Committee on Public Works.

PROPOSED LEGISLATION FROM THE VETERANS' ADMINISTRATION

A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to provide an earlier effective date for payment of pension to veterans (with an accompanying paper). Referred to the Committee on Veterans' Affairs.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. STEVENSON):

A resolution adopted by the County Legislature of the County of Monroe, N.Y., praying for the enactment of legislation to amend the Federal Internal Revenue Code. Referred to the Committee on Finance.

A resolution adopted by the Fifth Palau Legislature, Western Caroline Islands, praying for an expeditious settlement of the Micronesian War Claims. Referred to the Committee on Interior and Insular Affairs.

A resolution adopted by the Fifth Palau Legislature, Western Caroline Islands, praying for the enactment of legislation to reimburse that government for expenses incurred relating to war damage claims. Referred to the Committee on Interior and Insular Affairs.

A resolution adopted by the Upsala College, East Orange, N.J., relating to the independence of the Oglala Sioux Indian Nation. Referred to the Committee on Interior and Insular Affairs.

A resolution adopted by the Holy Name Society of the Church of the Little Flower, Coral Gables, Fla., praying for the enactment of legislation to amend the Constitution relating to abortion. Referred to the Committee on the Judiciary.

A resolution adopted by the Chamber of Commerce of Hawaii, praying for the enactment of legislation relating to shipping strikes. Referred to the Committee on Labor and Public Welfare.

A resolution adopted by Commissioners' Courts of Runnels County, Tex., expressing gratitude for enactment of revenue sharing legislation. Ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 1697. A bill to require the President to furnish predisaster assistance in order to avert or lessen the effects of a major disaster in the counties of Alameda and Contra Costa in California (Rept. No. 93–153).

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

S.J. Res. 112. An original joint resolution to amend section 1319 of the Housing and Urban Development Act of 1968 to increase the limitation on the face amount of flood insurance coverage authorized to be outstanding (Rept. No. 93–154).

By Mr. HARRY F. BYRD, JR., from the Committee on Armed Services, without amendment:

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 (Rept. No. 93–157).

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Res. 114. Resolution authorizing the printing of the annual report of the National Forest Reservation Commission (Rept. No. 93–155).

By Mr. CANNON, from the Committee on Rules and Administration, with amendments:

S. Res. 116. Resolution to provide additional funds for the Committee on Appropriations (Rept. No. 93–156).

By Mr. RANDOLPH, from the Committee on Public Works, without amendment:

S. 1808. A bill to apportion funds for the National System of Interstate and Defense Highways and to authorize funds in accordance with title 23, United States Code, for fiscal year 1974, and for other purposes (Rept. No. 93–158).

EXTENSION OF TIME FOR FILING MINORITY VIEWS ON S. 1570

Mr. FANNIN. Mr. President, I ask unanimous consent that the minority members of the Committee on Interior and Insular Affairs be given until midnight tomorrow to file their views on S. 1570, the fuel allocation bill.

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

AUTHORITY TO FILE VIEWS ON SUPPLEMENTAL APPROPRIATION BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, on behalf of the Senator from Nebraska (Mr. HRUSKA), that he have until midnight Friday night to file dissenting views on the supplemental appropriation bill.

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

EXECUTIVE REPORTS OF COMMITTEES

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

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

James T. Clark, of Michigan, to be an Assistant Secretary of the Interior.

Mr. JACKSON. Mr. President, in submitting this report of the Committee on Interior and Insular Affairs on the nomination of James T. Clark, of Michigan, to be Assistant Secretary of the Interior for Management, I wish to state that this nominee has agreed and committed himself on record to appear and testify at such reasonable times as the Interior Committee or any other duly constituted Senate committee might request his presence.

Mr. SYMINGTON. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nomination of Maj. Gen. Daniel James, Jr., USAF, to be lieutenant general as Principal Deputy Assistant Secretary of Defense for Public Affairs; Vice Adm. John V. Smith, USN, Gen. Frank Thomas Mildren, USA, and Lt. Gen. Otto J. Glasser, USAF, to be placed on the retired list in those respective grades; to the promotion of Lt. Gen. William Eugene DePuy, USA, to be general as Commanding General, USA Training and Doctrine Command and Maj. Gens. Donn Royce Peke and Orwin C. Talbott, USA, to be lieutenant generals in connection with assignments at U.S. Army Training and Doctrine Command; Lt. Gen. Melvin Zais, USA, to be general as Commanding General, Allied Land Forces Southeastern Europe; Rear Adm. Merton D. Van Orden, USN, to be Chief of Naval Research in the Department of Navy for a term of 3 years; Maj. Gen. William J. Evans to be lieutenant general as Deputy Chief of Staff, Research and Development, Headquarters, USAF. I ask that these names be placed on the Executive Calendar.

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

Mr. SYMINGTON. Mr. President, in addition, there are 1,729 temporary promotions in the Army—1,708 to be lieutenant colonel and 21 to grade of captain; 4,2033 Regular and Reserve—both temporary and permanent—promotions in the Navy in grade of captain and below; 60 temporary appointments to colonel—2 are Reservists—in the Marine Corps; 1st Lt. William D. Rusinak for appointment in the Marine Corps to the grade of captain: 873 Air Force and Military Academy cadets to second lieutenant in the Air Force; and, 37 Air National Guard majors to lieutenant colonel in the Reserve of the Air Force. Since these names have already appeared in the CONGRESSIONAL RECORD, in order to save the expense of printing on the Executive Calendar I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

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

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. ROBERT C. BYRD:

S. 1839. A bill to amend the Judiciary and Judicial Procedure Act of 1948. Referred to the Committee on the Judiciary.

By Mr. SPARKMAN (for himself, Mr. TOWER, Mr. RANDOLPH, Mr. BAKER, Mr. BURDICK, and Mr. DOMENICI):

S. 1840. A bill to provide for disaster assistance, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs; then to be referred to the Committee on Public Works, if and when reported by the Committee on Banking, Housing, and Urban Affairs, by unanimous consent.

By Mr. PASTORE (for himself, Mr. CANNON, Mr. COOK, and Mr. BEALL):

S. 1841. A bill to amend the Communications Act of 1934 for one year with respect to certain agreements relating to the broadcasting of home games of certain professional athletic teams. Referred to the Committee on Commerce.

By Mr. BELLMON:

S. 1842. A bill to amend the Social Security Act so as more effectively to assure that certain children, who have been abandoned by a parent, will receive the support and maintenance which such parent is legally required to provide, and otherwise to enforce the duty of parents to provide for the support and maintenance of their children. Referred to the Committee on Finance.

By Mr. HANSEN:

S. 1843. A bill to authorize the granting of mineral rights to certain homestead patentees who were wrongfully deprived of such rights. Referred to the Committee on Interior and Insular Affairs.

By Mr. ABOUREZK (for himself, Mr. BROCK, Mr. COOK, Mr. CASE, Mr. GRAVEL, Mr. MCGOVERN, Mr. FULBRIGHT, Mr. CRANSTON, Mr. TALMADGE, Mr. PERCY, Mr. RANDOLPH, Mr. HATFIELD, Mr. MCGEE, and Mr. JOHNSTON):

S. 1844. A bill to provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes. Referred to the Committee on Rules and Administration.

By Mr. BAYH:

S. 1845. A bill to authorize the Secretary of Health, Education, and Welfare to make grants to conduct special educational programs and activities concerning the use of drugs and for other related educational purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. MCGOVERN (for himself, Mr. CURTIS, and Mr. ABOUREZK):

S. 1846. A bill to amend the Small Business Act by adding at the end thereof a new title. Referred to the Committee on Banking, Housing and Urban Affairs; and

S. 1847. A bill to amend the Disaster Relief Act of 1970. Referred to the Committee on Public Works.

By Mr. STEVENSON:

S.J. Res. 111. A joint resolution to express the sense of Congress that a White House Conference on Amateur Athletics be called by the President of the United States. Referred to the Committee on Commerce.

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

S.J. Res. 112. An original joint resolution to amend section 1319 of the Housing and Urban Development Act of 1968 to increase the limitation on the face amount of flood insurance coverage authorized to be outstanding. Placed on the calendar.

By Mr ABOUREZK (for himself, Mr. MCGOVERN, Mr. CLARK, and Mr. HUGHES):

S.J. Res. 113. A joint resolution to direct the Interstate Commerce Commission to adopt a moratorium on railroad abandonments. Referred to the Committee on Commerce.

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

S.J. Res. 114. A joint resolution to authorize and request the President to proclaim the week of May 20–26, 1973, as "Digestive Disease Week." Considered and passed.

(The text of the joint resolution and the debate relating to its passage are printed at a later point in the RECORD of today.)

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROBERT C. BYRD:

S. 1839. A bill amend the Judiciary and Judicial Procedure Act of 1948. Referred to the Committee on the Judiciary.

Mr. ROBERT C. BYRD. Mr. President, I am today introducing a bill that I believe could help to end one form of harassment used against policemen in the performance of their duties. The bill provides that any party bringing suit against a police officer of the United States, any State, county, or municipality be required to post a surety bond conditioned on the payment to the defendants of reasonable costs of investigation and legal fees for defending such action, should the defendants prevail.

Police officials have informed me that officers are sometimes intimidated by the prospect of being brought into court unfairly; and this feeling of intimidation, on occasion, has manifested itself in the actions of policemen who shy away from enforcing the letter of the law.

If acting properly, and within their jurisdiction, police officers should not be made to pay legal expenses out of their own pockets, as is the case in many situations today, when they as defendants prevail.

The bill I am introducing would save the officer from having to use his own savings to defend himself against an unjust charge.

By Mr. SPARKMAN (for himself, Mr. TOWER, Mr. RANDOLPH, Mr. BAKER, Mr. BURDICK, and Mr. DOMENICI):

S. 1840. A bill to provide for disaster assistance, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs; then to be referred to the Committee on Public Works, if and when reported by the

Committee on Banking, Housing and Urban Affairs, by unanimous consent.

Mr. SPARKMAN. Mr. President, I introduce for myself, Senators TOWER, RANDOLPH, BAKER, BURDICK and DOMENICI, a bill to provide for disaster assistance and other purposes. This measure is recommended by the administration and deals with several areas of disaster relief to States and local governments, small businesses, homeowners, and so on. The proposed legislation crosses the legislative jurisdiction of both the Committee on Banking, Housing and Urban Affairs and the Committee on Public Works.

Accordingly, Mr. President, under agreement with the distinguished chairman of the Public Works Committee, Mr. RANDOLPH, I ask unanimous consent that the bill be referred first to the Committee on Banking, Housing and Urban Affairs, and after that committee has considered the provisions of the bill falling within its legislative prerogatives and reported, it be referred to the Public Works Committee so that committee may consider the provisions of the bill falling under its legislative jurisdiction.

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

Mr. SPARKMAN. Mr. President, I also ask unanimous consent that the message to Congress transmitting this proposal be printed in the RECORD at this point in my remarks.

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

To the Congress of the United States:

I am today submitting for the consideration of the Congress the Disaster Preparedness and Assistance Act of 1973. This legislation has resulted from a comprehensive review of all our disaster assistance activities as called for under Public Law 92-385, enacted last August.

A major objective of this bill is to consolidate the responsibility for disaster assistance, reducing the number of Federal agencies involved in these efforts, eliminating overlapping responsibilities and distributing benefits on a more equitable basis. Reorganization Plan No. 1 of 1973, in which the Congress has already concurred, provides the organizational structure for achieving this consolidation under the Secretary of Housing and Urban Developemnt. This new legislation would also do a great deal to strengthen the role of State and local governments and of private institutions in meeting this important challenge.

In addition, as its name clearly implies, this bill would place greater emphasis on protecting people and property against the effects of disasters before they occur. In this same connection, I would call once again for prompt enactment of the Flood Disaster Protection Act of 1973 which I submitted to the Congress several weeks ago.

The Disaster Preparedness and Assistance Act of 1973 represents a comprehensive new approach to a very crucial problem. To ease the transition to this new system, I propose that during its first year of operation a special Federal grant of $250,000 be provided to each State to help it increase its disaster preparedness and assistance capabilities.

Last year set a new record for the number of disasters which had to be formally declared by the President of the United States—48 in all. Already this year, spring floods and tornadoes have brought tragedy to many areas of our country.

While we cannot fully control the occurrence and the impact of disasters, we must do all we can to prepare for them, to prevent them, and to mitigate and remedy their effects. The legislation I am submitting today can help us do all these things more efficiently and more effectively and I strongly urge its prompt enactment.

RICHARD NIXON.

THE WHITE HOUSE, *May 8, 1973.*

DISASTER PREPAREDNESS AND ASSISTANCE ACT OF 1973

Mr. DOMENICI. Mr. President, I am pleased to join as a cosponsor of the President's legislative recommendations for revision of the Federal disaster relief laws. Since the enactment of the Disaster Relief Act of 1970, Public Law 91-606, the country has suffered a number of severe storms including flash flooding in South Dakota, widespread flooding in the East following tropical storm Agnes—called the most extensive flood in the country's history by the National Oceanic and Atmospheric Administration—and culminating in recent flooding in the Mississippi River Basin. After only 2 years since passage of the basic disaster relief legislation—Public Law 91-606, we have experience to provide a basis for a complete review of current law.

As the ranking minority member of the Public Works Subcommittee on Disaster Relief, I have participated in field hearings regarding the adequacy and implementation of the basic, current disaster relief program. I believe these hearings have testified to the value of present law and Federal aid provided in meeting and alleviating emergency situations and in accelerating efforts toward full recovery. On the other hand, these hearings have suggested improvements in current law. Much of the criticism of current law was directed toward administrative problems associated with delay, confusion, and duplication dealing with many Federal departments and agencies, cumbersome procedures in preparing applications for categorical aid programs and administrative decisions of numerous Federal agencies.

The President's proposals are designed to allow the States and local communities maximum discretion in planning and carrying out long-range rehabilitation. In title VI, following the emergency, Federal block grants would be made available to the States on the basis of estimated damages in lieu of categorical aid. The Governor would be responsible for administration of the grant program.

Second, the President's recommendations would require that as a condition for Federal assistance, property owners in disaster-prone areas purchase flood insurance, where reasonably available, adequate, and necessary. In addition, no Federal assistance would be given in future disasters unless the insurance requirements continue to be complied with. I am convinced that Government-sponsored, subsidized disaster insurance is the best means of aiding disaster victims.

Of course, a disaster insurance program is only as effective as the availability and adequacy of insurance at reasonable rates. The National Flood Insurance program of the Department of Housing and Urban Development has had, to date, very disappointing results. While there are now more than 1,700 communities in the National Flood Insurance program, it is still less than half of the more than 5,000 flood-prone communities in the country, as estimated by the Army Corps of Engineers. While 175,000 persons have purchased close to $3 billion of flood insurance, these figures are a small proportion of the potential flood losses. For example, at the time of the Rapid City, S. Dak., flood only 29 residents had taken the opportunity to protect their homes and businesses. It is estimated damages following Tropical Storm Agnes approach $2 billion. Yet it is estimated only about 2 percent of actual losses were covered by flood insurance.

I am pleased that the President sent to the Congress the Flood Protection Act of 1973, which would expand the flood insurance program by substantially increasing limits of coverage and the total amount of insurance authorized to be outstanding and would provide incentives for known flood-prone communities to participate in the program. The measure would reduce insurance rates from 40 cents per hundred of coverage to 25 cents per hundred. It would increase authorized sales from $4 billion to $10 billion. It would increase subsidized coverage for single-family dwellings from $17,500 to $35,000 and the dwellings contents from $5,000 to $10,000. Subsidized coverage for non-residential structures would increase from $30,000 to $100,000 and the contents from $5,000 to $100,000. Additional coverage would become available at actuarial rates.

In addition to providing coverage against loss, the Flood Protection Act would promote sound flood plain management and land use control. Perhaps the most effective means of reducing long run losses are the requirements—in both the proposed Disaster Relief Act of 1973 and the Flood Protection Act of 1973—that hazard mitigation measures such as landuse and construction standards be complied with in disaster prone areas.

A comprehensive salable system of federally subsidized insurance is needed if we are truly to move away from responding to disasters on ad hoc basis. I am pleased that the Federal Insurance Administration is studying the feasibility of expanding the flood insurance program to cover other types of disasters as well.

Mr. President, under current law Federal aid is available only after a major disaster declaration by the President. Prior to such declaration the Governor of the effected State must estimate damages and certify the need for Federal disaster assistance and give assurances of the expenditure of a reasonable amount of State funds. In most cases, the full extent of damages cannot be determined for days and the cost of recovery may not be accurately assessed for weeks. Estimates made immediately following a disaster must usually be necessarily based upon fragmentary and incomplete information.

The President's proposal would expedite Federal assistance in emergency sit-

uations, enabling the President to provide 100 percent Federal emergency assistance for life-saving, public health and safety with or without a major disaster declaration. If there is ever a time when the Federal Government should move swiftly and decisively, it is to alleviate the suffering, hardship, and threat to health and safety in the immediate aftermath of catastrophe.

Mr. President, because many major disasters strike without warning, assistance must be readily available for immediate relief. That is, predisaster preparedness is a major and crucial part of any type of comprehensive disaster program. Preparation and planning is important to the success of the program. Under current law, Federal assistance is available for preparedness planning on a 50 percent matching basis by the States, up to $250,000. In addition, grants are available on a 50 percent matching basis, up to $25,000 per year for improving, maintaining and updating state disaster assistance plans. Experience has shown that with the multitude of high priorities requirements on the States, many have not taken advantage of this matching program.

The Disaster Relief Act of 1973 would provide 100 percent funding up to $250,000 to each State for 1 year to encourage them to create disaster assistance programs and agencies. The Congress will have the opportunity to review the extent of Federal assistance necessary to give incentive to the States to develop disaster preparedness programs. If the States are to take more responsibility in disaster relief, it is essential they have the ability to develop an effective program.

The Disaster Relief Act of 1973 would also strengthen the disaster warning system. Present law permits only the use of the Federal civil defense communications system. The proposed bill would authorize contracts with private or commercial systems as well—section 702.

The President's proposal would also provide new assistance for needy families—up to $3,000 per low-income family. Title V would authorize Federal grants based on the number of low-income families in the disaster area as estimated by the State. Eligibility of, and actual amount given to, each needy family would be determined by State criteria. Other individual benefits include unemployment assistance—section 601—federally funded but State administered; legal services provided in cooperation with State and local bar associations—section 208; temporary housing—section 601—federally funded and State administered; and food stamps—section 601.

Mr. President, as I have explained, the administration bill includes several constructive changes and, of course, other modifications about which there may be differences of view. I am pleased to cosponsor the President's proposal and look forward to a full review of our disaster relief program and the development of a still better program. The Federal disaster relief program is of great importance and interest to communities and families in every State.

By Mr. PASTORE (for himself, Mr. CANNON, Mr. COOK, and Mr. BEALL):

S. 1841. A bill to amend the Communications Act of 1934 for 1 year with respect to certain agreements relating to the broadcasting of home games of certain professional athletic teams. Referred to the Committee on Commerce.

Mr. PASTORE. Mr. President, on behalf of Senator CANNON, Senator COOK, Senator BEALL, and myself I introduce a proposal which would, in effect, prohibit any television broadcast licensee, cable television system, or network television broadcast organization from carrying out any contract or arrangement whereby the station, network or system is prevented from broadcasting or carrying the home games of any professional football, baseball, basketball or hockey team when tickets for admission to such game are no longer available for purchase by the general public 48 hours or more before the scheduled beginning time of such game.

The proposal would terminate after 1 year following its date of enactment.

The Commerce Committee held 3 days of extensive hearings on similar legislation last October.

At the committee's urging, Commissioner Rozelle of the National Football League, announced on October 12 that the National Football League would televise the Super Bowl game in Los Angeles, site of the game, if all tickets were sold by 10 days prior to its playing on January 14, 1973. He also said that the NFL would assemble the facts concerning the legal conflicts of stadium leases, stadium contracts with outside parties, radio and television contracts as well as practical considerations involved in altering its policy of not televising regular season games commercially. The result was to be submitted to the committee.

On May 3, 1973 Commissioner Rozelle met with me and submitted the NFL study he had promised in the previous October.

At the May 3 meeting he offered to lift the TV blackout for Super Bowl 1973, and to work out with the club owners an experiment for the last five home games of the New York Giants whereby the blackout would be lifted in the New Haven-Hartford, Conn., area.

I told him that as far as I was concerned this was not a meaningful experiment, and it was therefore unacceptable. I said I was going to report to the committee and if it agreed I would recommend 1 year trial legislation.

Mr. President, I reported to the committee, and recommended that trial legislation be introduced. The committee expressed the hope that the National Football League would reconsider and come back to the committee with a more meaningful experiment for the coming season.

The study which the NFL submitted indicated that some of its clubs have stadium leases and concessionaire contracts which will be affected by the legislation.

In view of the extensive hearings held just last year I do not believe it necessary to go over the same ground again.

The committee may, however, hold some hearings so that the municipalities which lease stadiums to NFL clubs may express their views as to the desirability of lifting the local TV ban when a game is sold out.

By Mr. BELLMON:

S. 1842. A bill to amend the Social Security Act so as more effectively to assure that certain children, who have been abandoned by a parent, will receive the support and maintenance which such parent is legally required to provide, and otherwise to enforce the duty of parents to provide for the support and maintenance of their children. Referred to the Committee on Finance.

FEDERAL CHILD SUPPORT SECURITY ACT

Mr. BELLMON. Mr. President, I am today reintroducing the Federal Child Support Security Act, a bill to amend the Social Security Act to assure that certain children, who have been abandoned by a parent, will receive the support and maintenance which such parent is legally required to provide.

One of the major weaknesses of present divorce laws is that it is quite easy for a parent, usually a father, to avoid his court-imposed duty of child support. Often he can do this simply by moving to another State. In some instances a further minor step might be required such as getting an unlisted telephone number.

When this happens, the full burden of supporting the children falls upon the mother. She is forced to find a job and possibly neglect her maternal duties. Many women go on welfare, and thus become a burden on society.

All the while, the father escapes his responsibility.

Clearly the system needs to be changed to avoid further abuses of this kind.

Mr. President, we have in our society "tax dodgers" and "draft dodgers," but in my opinion the most reprehensible "dodger" of any kind is the parent who dodges his duty to support his children.

What happens when a father refuses to make the child support payments ordered by a court? What alternatives are available to the mother in such a situation?

In the simplest kind of circumstance, if both parents live in the same State, the mother has various State remedies open to her. Since the father comes under jurisdiction of the State courts, a binding court order can be applied against him. The State attorney general's office also can be helpful.

But all too often this is not the case. Frequently, if a father wants to get out of paying child support, he simply moves to another State. The costs of collecting from the runaway father may well exceed the amount of the actual payments.

Most States have reciprocity laws to help enforce alimony and child support decrees. However, in order to enforce these laws, it is necessary that the mother know the address of the father, so that papers can be served. Finding out this information can be both difficult and expensive.

In most cases, the mother does not

have the money necessary to hire a private investigator to track down the father, who may be living thousands of miles away. Even if she does, and is determined to go through all the trouble involved, it is both emotionally disturbing to the family and economically counter productive to go through the same lengthy procedures each time a payment is missed, which is often once a month.

There are special procedures for those mothers forced to go on welfare, or to remain on welfare when the father leaves the home. Present laws require that State welfare agencies establish a separate, identified unit whose purpose is to secure support for children from deserting parents, utilizing any reciprocal arrangements adopted with other States to obtain or enforce court orders for support. Also, the State welfare agencies are required to enter into cooperative arrangements with the courts and with law enforcement officials to carry out this program. Access is authorized in some instances to both social security and Internal Revenue Service orders to locate the deserting parents.

However, to quote from the Senate Report to H.R. 1 last fall, "the effectiveness of the provisions of present law has varied widely among the States." Even with this assistance, the major problem is locating the father, as very few agencies have the funds or the personnel necessary to do the job successfully.

Speaking in Oklahoma City in 1971 at the 20th annual National Conference on Uniform Reciprocal Enforcement of Support, Judge Raymond R. Niemer, senior family court judge of Erie County in Buffalo, N.Y., said courts need additional help in locating parents who do not pay. He said States are working together as well as they can in finding fathers who flee to another State and making them pay, but he said extradition would not solve the problem.

Quoting Judge Niemer:

If he has gone somewhere to get a job it would serve no purpose to uproot him just to bring him back.

As a result of these conditions, the head of the abandoned family—usually a mother—finds it difficult or even impossible to obtain the income required to provide the care which children need. In many cases, this means that children of broken homes live in want and squalor. It also means that in countless thousands of cases the mothers of these children turn to the Federal welfare programs for survival. This is one reason we have seen the costs of the aid to families with dependent children program rise astronomically from $1.02 billion in 1960 to more than $4.8 billion in 1972. The trend continues sharply upward.

Judge Niemer, like many of his legal colleagues, believes additional legislation is needed to make it possible to obtain the money for child support from those who are legally responsible. He said:

What we need to do is to coordinate into a country-wide law so that borders will be merely lines on a map.

Mr. President, the legislation I am proposing would accomplish that purpose. It will create the authority and the legal mechanism to bring order out of the chaotic, costly and destabilizing child support conditions which exist today.

This bill establishes the Federal child support security fund. It provides that court established child support payments may be made from the fund. Such payments become an obligation of the responsible parent to the Federal Government, and could be withheld from his salary the same as social security taxes are withheld at the present time. The bill also provides the Secretary of Health, Education, and Welfare with the necessary authority to collect from responsible parents the amount of child support paid in behalf of the parent. In this regard, the bill provides for the release of necessary information by any department or agency to enable the Attorney General to take necessary action to recover child support payments made in behalf of responsible parents.

Mr. President, this bill is identical to S. 2669 of the 92d Congress. Some of that bill's provisions were included in the welfare section of H.R. 1, as a means of reducing the cost of the AFDC program. However, since the entire welfare section was later dropped from H.R. 1, none of these provisions have become law.

After it was introduced, S. 2669 received wide publicity and a great many mothers who have suffered injustice under the present system wrote letters and petitions endorsing and supporting the bill. I ask unanimous consent that a representative sample of this mail be printed in the RECORD at this point.

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

REPRESENTATIVE SAMPLE

I am writing you as a last resort, and hopefully to furnish an example for the Senate Bill you have introduced to obligate the father of minor children to provide support. I have followed the advice of Governor Hall's office, the Welfare Department, and Tulsa District Attorney's office to get my husband to pay his obligation instead of the State Welfare Department, but I can't afford to hire private investigators.

On May 1, 1969, I was divorced from my husband in Tulsa County, Oklahoma. He was ordered to pay child support for our 3 children, who are now 6, 8, and 10. I haven't received a penny from him yet. He was also ordered to pay my attorney $300.00 in fees.

I learned he was on probation before in Oklahoma for failing to provide. He was then, May 1, 1969, remarried, and I guess he is still married. They were living in East Tulsa County, but managed to sell her house and property and moved out of state to avoid paying child support.

I was billed for the attorney fees which I was unable to pay. I had to pay the gas company $48.00 in January, 1972, for a gas bill he didn't pay in 1965 when we were married.

I started drawing A.D.C. for my 3 children and still am.

The Welfare office and D.A.'s office told me I had to have his address before I could do anything. I learned he had been employed for Tri-State Trucking Company in Joplin, Missouri. I got his address by calling long-distance information, in Neosho, Missouri.

I went to the Tulsa District Attorney's office in December 1971, and went back regularly after that on the date they told me to.

On May 8, 1972, the lady in the District Attorney's office told me my husband had moved to somewhere else in Joplin, Missouri. The District Attorney's office said they would have to close their file until I could furnish them with his new address in Joplin, Missouri, as it is in a different county. He still works for Tri-State Trucking Company.

I called Joplin information and they told me the street he lives on but they can't give me his address because he has a unlisted number. I can't understand why he only has to cross a state or county line and get an unlisted phone number.

I'd like to add my support to your Federal Child Support Security Bill. I'm one of the many women raising a child alone. My daughter is five and her father, a resident of another state, did not want a child and has never supported her. Fortunately, my secretarial position provides a steady income and we won't starve by any means, but support would enable planning ahead for an education, as well as providing the ever-increasing, ever more costly, daily needs of a growing girl.

I would like to call your attention to some things in regard to welfare recipients. Several years ago I was on A.D.C. This would have been entirely unnecessary had legal action been taken to force my previous husband to pay the child support my children were granted in court. This would have paid the necessary baby sitter and the amount of money I made working, even though small, would have been enough for us to live. He lived in Texas, however, and the reciprocal action was impossible even though I signed three separate papers to authorize his arrest. Fortunately I received sheet metal training through Cessna Aircraft and was able to make enough money to support my family and pay a baby sitter too. Cessna paid women the same as men. However, many women in the same shape I was in, quit their jobs and went back on Welfare as they lived as well without working and were home with their children. I am now married to a Policeman and we don't have as much money as when I was on Welfare. My husband is seriously thinking of going back to truck driving. In addition to drawing welfare payments, many women took in ironing and did babysitting and came out with quite an income.

I'm writing in favor of your Welfare Change Plan.

I am 16, and have 2 younger sisters and a brother. Our father left us in 1959, and hasn't contributed any help whatsoever in our favor. Even before that he didn't support us.

Our mother was sick and couldn't work, so Welfare has helped us. She's doing a lot better now. She's been trained, but can't find any kind of work other than domestic work, so we are still on Welfare.

I feel that our father should have some responsibility to not only our family, but to his several other families as well, forced or otherwise.

My family and I all agree strongly with this plan. I sincerely hope to see it put to work, because I don't like the idea of having other people support me through life when they have families of their own to support.

This morning I read of your proposal to establish a "federal child support security fund." I, and I am sure many other divorced mothers, applaud you for this action. There are so many of us in the same position—we work to support our children, but wages for women are not sufficient to afford our children with most of the necessities of life.

For myself and my children, I cannot in all conscience sit back and live on welfare. I am capable of working and enjoy it. I do not make enough to hire an attorney to track down the father of my children and institute

action against him. On the other hand, I make too much to qualify for legal aid to start proceedings.

The legislation which you have introduced, if passed, will mean that my children and many others like them will have a fair chance—which they deserve.

I am one of the many women that doesn't get child support from my ex-husband and it isn't easy for a woman to support four children.

There are many women in Oklahoma with the same problem. The lawyers can't do anything without money. The state can't pick them up unless we know where to tell them the fathers are.

The only way we can find out is if we are drawing welfare. The welfare department will find out where they are and make them pay payments but still they aren't having any luck either.

We can't live on $192.00 per month—this is allowed for a mother of four children on welfare, so I work—six days a week as a cashier and reservationist.

I think this is the best solution to all the problems of women who are left alone to raise children with no help from the father.

The children don't have a chance to participate in activities, clubs, church and social life as the children with both a mother and father.

It costs $27.00 a month to feed three children on school lunches.

The women have to carry all the responsibilities and it is rough. We have to see that they have food, clothing, shelter and love. Believe you me it is hard working and having time to take individual time for each of them.

Well, I've had my say, Mr. Bellmon, and again I don't know where, who or how you got the idea to have this bill introduced but I will say you are on my good list. I know there are many, many women in the state of Oklahoma who feel the same as I do.

I want to congratulate you on your efforts to make a federal crime of the abandonment of children by fathers who are fully capable of supporting them.

I have practiced law forty years in Oklahoma City and one of the tragedies has been the complete failure of the law profession under the present setup to make fathers support their children in these divorce cases. The moral blindness of people as to the severe criminality in a healthy, able-bodied father of four or five little children going off and abandoning them. The average District Attorney in Oklahoma rants and raves about burglary and car stealing, which in my opinion are insignificant crimes compared to that of abandoning little children. As a result, when you send some little mother over to see the District Attorney, he either will not do anything or tell them to go back to their lawyer and the lawyer ought to get a contempt citation against the father and make him support his children. The lawyer has heavy overhead today to keep his office open and this mother hasn't any money to pay the fee, she has no money to pay the sheriff to go bring him back from California, Kansas or some other state and the result is nothing is done.

We have a standard reciprocity law which most of the states subscribe to where your local District Attorney can send a case to the county where the man is located in some foreign state and that District Attorney is supposed to bring him down before the Judge and either jail him or make him pay. However, my experience with that law is that it is a total failure and just doesn't work.

The federal government will return some kid who stole some old $400 jalopy car and crossed the state line under the Dyer Act. Under the Mann Act, they'll return some boy who took some questionable woman across the state line, but a father who abandons a bunch of hungry kids is allowed to go scott free.

I certainly wish you all the success in the world in this endeavor, and it will save the taxpayers a lot of money, as this Aid to Dependent Children is getting to be a terrific cost to the state and federal government.

I received your recent letter and would like to say that I'm glad to see something being done toward the Child Support situation. I hope this will benefit everyone and not just those on welfare. You see I don't believe in people getting welfare when they are able and capable of working. I want to make my own way and take care of my own children but I also feel that a father who is working, making good money should also be made to live up to the court order and provide the child support he agreed to and was ordered to pay.

Under the "Uniform Reciprocal Support Act" I have been unable to get anything done. He pays just when he feels like it and that's getting to be less and less. I have the distinct impression from the District Attorney's office that if I were on welfare I would accomplish more. I think this is terrible that a taxpayer cannot get the cooperation through the laws that someone who is on welfare and drawing my money can.

Can you please tell me where I can get a copy of the Uniform Reciprocal Support Act and if there is any way I might be able to collect through the Texas laws since he is there and is employed. From what I've been told it appears anyone can run to Texas and get out of paying anything they owe. If this is the case it is a sad state that our laws are in. A law is not a law if it doesn't have teeth.

Thank you for any information you can give me and for your introducing this bill on the Federal Child Support Security Act.

This letter is to advise you of my support along with many other women I know in the same position of the Federal Child Support Security Act.

I was divorced in 1967 and left with four children, two of which are now grown, left home and self supporting. Out of the four years I have been divorced I have received child support payments only eight months. I work to try and support my two remaining children and at one time I worked two jobs until it was too much both mentally and physically. It is all I can do to keep things going financially and I like many others could use this help. The children's father's whereabouts is unknown at this time. Of course many mothers in my position do not have the money to hire an attorney to help them. To me this plan sounds like a very good one.

I wholeheartedly agree with the Child Support Bill you have introduced; if this passes it will be the answer to all my prayers.

I am the mother of two children, and haven't received any support at all this year—even taking every possible action that I know of. The D.A., the Grand Jury . . . but still no results. I just hope and pray that it will be okayed.

I've been hearing and reading about the impending law to make missed child support payments a debt of the father to the Federal Government. I applaud this legislation, as a divorced mother who has never received a cent from an irresponsible father. I worked all last year and saved money like a "Scrooge" to put myself through college, and my daughter and I are forced to live with my parents, who are lovely people, but it doesn't make the situation any better, because I have too much money to get on welfare. What a deplorable system!

I was so happy to read the article published in the Daily Oklahoman regarding Child Support payments.

My ex-husband is three years behind on payments. We have a 15–16 and 17 year old. It has been quite a struggle to make the living, but by the grace of God we have made it. They are so wonderful to help themselves and all are honor students. Things look a bit serious now, as they have cut my hours at the Post Office. I work two hours a day at the Post Office, then about three hours at a cafe and then a beautician the rest of the day and part of the night, with the full realization that I am a mother twenty-four hours a day.

Any assistance will help and I do hope it passes. I have tried to find my husband and I have signed and agreed to sign anything to force him to pay and I seem to get the runaround everywhere I go. I have tried to get something done through the County officials and have caught them in several lies, so I have given up there. I knew he was living in the City, but driving a truck in and out and I called them one time and told them exactly where they could have him picked up and nothing was done. I checked with Oklahoma City and a warrant was never sent to them for his arrest.

I paid an Oklahoma City attorney $225 as a retainer and he never did do anything except send me about five letters saying I would have to give him more information, which didn't make sense because they had his correct address and he is too big a lawyer for that.

I have heard recently that my husband is mixed up completely in the Mafia rackets or something. One of his greatest faults was gambling and it sounds logical. He has made no contact to see his three children and has sent less than $300 since he left seven years ago.

I could leave well enough alone except for the fact when you are trying to help young ones to be responsible adults and their parents show this kind of example, I just can't see it. I have tried to keep hate out of it and feel I have succeeded there. Where can I go from here—I do really appreciate you putting out the effort to revise some of these situation. I know it will help many.

I would like to commend you on your attempt to pass the Federal Child Support Security Act. It is a pity that it has taken so long for a bill such as this to be introduced.

Few people realize how many "neglected children" there are in this world simply because their fathers refuse to support them.

My ex-husband is a professional man earning in excess of $1500 per month, yet the court awarded me a mere $150 per month for the support of two children. There is now an accumulated arrearage of more than $2500. As I live in Arkansas and he lives in Minnesota, I have been unable to force him to pay even through the Department of Court Services. I have too much pride to ask for welfare assistance and have often worked two jobs to take care of our needs.

Please Senator Bellmon, for the sake of millions of children, don't give up your fight. Children should not be made to suffer for the vengeful acts of their parents.

I was gratified to read in today's Daily Oklahoman that you are proposing a bill which would enable enforcement of child support by Social Security Administration.

My former husband is an Italian citizen and has been living in Lexington, Kentucky since 1966. I met and married him there and we have one son. Our marriage faltered in 1968 and I was forced to return to my home, Oklahoma City. Since that time, he has not contributed to the support of our son. I was

granted child support from the Fayette County Court, Lexington, after our separation, and again from the Oklahoma County Court following a divorce which I obtained through publication in December, 1970. However, I have not been able to enforce either ruling because I do not have his precise address. Furthermore, his work carries him out of town a great deal, adding another complication to having him served with the necessary papers. I have written to the immigrations authorities in Cincinnati, Ohio, under whose jurisdiction he lives. However, their reply was that they could not intervene because this was a "civil" matter.

I have a good job as a secretary, but it has been a continual struggle for me to support our son. With the current wage freeze and without the financial assistance from my husband, our future looks bleak, at best I have always felt that I should accept my responsibilities and have done so to the best of my ability without seeking public assistance. However, I feel that my husband should accept his share of the responsibility in raising our son. I have never sought alimony, although his income could easily accommodate both alimony and child support.

I would like to thank you for a well thought out approach to this problem, and for your interest. I don't know why someone hasn't thought of this as a solution before now. I am afraid that it is almost too good to be true. It seems that so many well conceived ideas meet with defeat. I only hope that you are able to convince the necessary people of the merit of your idea and I am with you all the way.

I was reading your article on the Child Support Bill. I have just recently gone through a divorce and my ex-husband was to send child support for our three children. The first month and a half he did pretty fair but since the last of August I have received nothing.

It is hard trying to furnish the children the things they need on just what I make, and really it is not right by law or state that a mother as it is in my case have the complete support. The father has a responsibility to his children also.

In my case it was a one sided divorce. This was what my husband wanted and this is what he got.

Our divorce was granted in Missouri and since then the children and I have come back to Oklahoma, which is our home and a Great State if I may say so.

I hope for others that this bill passes because it is not easy to meet expenses. If others have had as much trouble as I have getting by, I wish you the best in obtaining this. If I can do anything to help on this bill I will try. Good luck.

I am writing to inquire about a bill that I was told you were working on. This bill concerns child support. I think the bill is supposed to enable the Federal Government to subtract the child support from the father's Social Security, so the mother would receive it regularly.

I would like very much to have a copy of this bill, if it exists. I think it is a very worthwhile subject, and I don't think enough people realize the difficulty a mother has in trying to collect this money.

In my own case for example: I was divorced in January of 1971 and since then the father has paid $120 in child support. He is supposed to pay $60 per month. I finally decided to try and do something about it, but it isn't very easy. A private lawyer could probably help me, in fact I talked to one, but it would cost a small fortune, that if the father didn't pay, I would have to, and with raising a small child I don't need any more expenses than I have to have. I went to the District Attorney's office, but I needed an address of where he was and where he had just recently worked (which I didn't find out about till after he had already quit). They mailed him a letter in care of that address, and now we have to wait 30 days; at that time, I will have to have a definite address and they will not help me in any way to get one. Neither will they talk to me on the phone, I either write, which takes time, or I take off from work and go in person, which costs my wages.

Anyway, this is just a few of the problems a mother encounters when trying to collect child support from an irresponsible father and I think that anything that could be done about this would be terrific. Please feel free to use this letter in any way you wish, and I will expect a copy of the bill as soon as it is convenient for you.

If you need any petitions to be signed, please feel free to send me one.

Mr. BELLMON. Mr. President, these are the most eloquent arguments that could be made in behalf of this bill. These women have pursued every avenue now open to them in an effort to get the child-support money to which they are legally entitled, without success. As a result, many feel disgraced to be forced to live on welfare.

Others are holding down two and three jobs in an effort to stay off welfare, and their children are suffering as a result. They badly need the help of Congress in working out a system to get them the money they have been granted without going through the costly, emotionally destabilizing, intricate legal procedures which are now their only recourse, and which so frequently end in failure.

This bill would shift the burden of supporting dependent children from the Federal Treasury to the responsible parents. It would help to stabilize the income of these families. It would relieve the emotional stress faced by these families and perhaps help prevent the breakup of so many families.

We have laws against "tax dodgers." We have laws against "draft dodgers." It is time we had a law against "child-support dodgers."

Congress will do a great service not only to the families of broken homes but to the taxpayers of the country by approving the legislation needed to make certain that runaway fathers meet their family obligations.

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

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

S. 1842

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 "Federal Child Support Security Act of 1971".

SEC. 2. The Social Security Act is amended by adding after title XIX thereof the following new title:

"TITLE XX—ENFORCEMENT OF PARENT DUTY TO PROVIDE CHILD SUPPORT

"FINDINGS AND DECLARATION OF PURPOSE

"SEC. 2001. (a) The Congress finds and declares that—

"(1) in numerous cases children, who have been abandoned by a parent, are not receiving from such parent the support and maintenance to which they are legally entitled; and

"(2) the failure of parents of such children to carry out their duty of child support and maintenance frequently results either (A) in a lack of proper care of such children, or (B) the imposition of an unfair and unnecessary burden on the taxpayers who, because of such failure, are obliged through welfare programs to provide for the support and maintenance of such children.

"(b) It is, therefore, the purpose of this title further to assure that parents who have abandoned their children will be required to carry out their obligations for child support and maintenance, and that such children will receive the parental support and maintenance to which they are entitled.

"PART A—COLLECTION AND DISSEMINATION OF INFORMATION TO ASSIST IN LOCATING CERTAIN PARENTS

"PROVISION OF INFORMATION BY SECRETARY

"SEC. 2010. (a) Upon request, filed in accordance with subsection (c) of any authorized person (as defined in subsection (b)) for the most recent address and place of employment of any individual, the Secretary shall, nothwithstanding any other provision of law, provide such information to such person, if—

"(1) the Secretary (on the basis of the information supplied in, or in connection with, such request and any other information which is brought to his attention) is reasonably satisfied that such information is sought in connection with the enforcement against such individual of the legal duty of such individual to provide for the support and maintenance of a child or children of such individual; and

"(2) such information—

"(A) is contained in any files or records maintained by the Department of Health, Education, and Welfare; or

"(B) is not contained in any such files or records, but can be obtained by the Secretary, under the authority conferred by section 2011, from any other department, agency, or instrumentality of the United States or of any State.

"(b) As used in subsection (a), the term 'authorized person' means—

"(1) the child of the individual with respect to whom the information referred to in subsection (a) is requested, if—

"(A) there has been issued, by a court of competent jurisdiction, a court order against such individual for the support and maintenance of such child; or

"(B) such child is a qualified, approved applicant for, or recipient of, financial assistance under any welfare program which (i) is administered by any State (or political subdivision thereof) and (ii) is designed to provide for or assist in the provision of support and maintenance of children in destitute or necessitous circumstances; and

"(2) the parent, guardian, attorney, or agent of a child described in clause (1), or a public welfare agency providing financial or other assistance to such child because of such child's destitute or necessitous circumstances; or

"(3) the court which issued, with respect to such child, a court order described in clause (1)(A), or any agent of such court.

"(c) A request under this section shall be filed in such manner and form as the Secretary shall by regulations prescribe and shall be accompanied or supported by such documents as the Secretary may determine to be necessary to enable h mito make the findings prescribed in subsection (a)(1).

"SECURING OF INFORMATION FROM OTHER DEPARTMENTS AND AGENCIES

"SEC. 2011. (a) Whenever the Secretary receives a request submitted under section 2010 which he is reasonably satisfied meets the criteria established by section 2010(a)(1), he shall promptly cause a search to be made of the files and records maintained by

the Department of Health, Education, and Welfare with a view to determining whether the information sought in such request is contained in any such files or records.

"(b) If the search referred to in subsection (a) does not produce the information sought, the Secretary shall forthwith request such information of the head of any other department, agency, or instrumentality of the United States or of any State, if he determines that there is a reasonable probability that such information is contained in the files and records maintained by such department, agency, or instrumentality.

"(c) Notwithstanding any other provision of law, whenever the head of any department, agency, or instrumentality of the United States receives a request for information from the Secretary pursuant to subsection (b), the head of such department, agency, or instrumentality shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality with a view to determining whether the information sought is contained in any such files or records. The head of such department, agency, or instrumentality shall, if such search discloses the information sought, immediately transmit such information to the Secretary, and, if such search fails to disclose the information sought, immediately notify the Secretary of that fact.

"PART B—PAYMENTS BY SECRETARY FOR SUPPORT AND MAINTENANCE OF CERTAIN CHILDREN

"ESTABLISHMENT OF REVOLVING FUND

"SEC. 2020. (a) There is hereby established in the Treasury a revolving fund to be known as the Federal Child Support Security Fund (hereinafter in this part referred to as the 'security 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, to enable him to make the child support payments authorized by this part.

"(b) To the extent authorized from time to time in appropriation Acts, there shall be deposited in the security fund amounts recovered, under section 2025, from parents of the children who receive child support payments under this part.

"(c) There is authorized to be appropriated to the security fund an initial sum of $75,000,000, and thereafter such sums as may be necessary to enable the Secretary to make therefrom the child support payments authorized by this part.

"CHILD SUPPORT PAYMENTS

"SEC. 2021. (a) From the moneys available in the security fund, the Secretary shall, in accordance with this part, make child support payments to any child who is entitled to such payments under this section.

"(b) A child shall be entitled to child support payments under this part, if—

"(1) application for such payments has been filed (in such form, manner, and containing such information as the Secretary may require); and

"(2) the Secretary is reasonably satisfied (from the information contained in or supplied in support of such application and any other information that is brought to his attention) that—

"(A) a parent of such child is, and has been for a period of not less than 6 months immediately preceding the date the application is filed, absent from the State in which such child resides;

"(B) not later than 4 months prior to the date the application is filed there has been issued, by a court of competent jurisdiction in the State in which such child resides, against such parent a court order under which such parent is ordered to make periodic financial contributions for the support and maintenance of such child; and

"(C) such child has not, for a period of not less than 3 months immediately prior to the date the application is filed, received any periodic financial contribution from such parent as required under such court order.

"(c) Any child who is entitled to child support payments under this part shall be paid such payments on a monthly basis, beginning with the month in which application for such payments is filed, or, if later, the month in which the Secretary determines that such child is entitled to such payments.

"(d)(1) The amount of the child support payments payable under this part to any child entitled thereto shall, subject to paragraph (2), be equal to the amount of the monthly periodic financial contributions that the parent of such child has been ordered to make, under the court order referred to in subsection (b)(2), for the support and maintenance of such child, or, if less, $150. If the periodic financial contributions that such a parent has been so ordered to make are payable on other than a monthly basis, the provisions of the preceding sentence shall be applied so as to reflect, as nearly as possible, an amount which is equivalent to that which would be produced if such periodic financial contributions were payable on a monthly basis.

"(2) If for any month for which a child is entitled to child support payments under this part, the parent of such child, against whom the court order (referred to in subsection (b)(2)) for support and maintenance of such child is issued, makes any financial contribution toward the support and maintenance of such child (whether or not such contribution is made in compliance or partial compliance with such order), the amount of the child support payments payable to such child for such month shall be reduced (but not below zero) by the amount of such financial contribution.

"(e) No child shall be entitled, on the basis of any application for child support payments under this part, to be paid such payments for any month after the third consecutive month with respect to which the amount of the child has been reduced, pursuant to subsection (d)(2) to zero. Nothing in the preceding sentence shall be constructed to preclude any child whose entitlement to child support payments on the basis of any application has been terminated pursuant to such sentence from thereafter applying for and again becoming entitled to such payments on the basis of a new application therefor.

"(f) Any application for child support payments under this part for any child may be filed by such child, by the parent, guardian, attorney or agent of such child, or by any public welfare agency which is providing financial or other assistance to such child because of such child's destitute or necessitous circumstances.

"(g) Whenever the Secretary finds that more or less than the correct amount of child support payments has been paid with respect to any child, proper adjustment shall, subject to the succeeding provisions of this subsection, be made by appropriate adjustments in future payments to such child. The Secretary shall make such provision as he finds appropriate in the case of payment of more than the correct amount of child support payments with respect to any child with a view to avoiding penalizing such child who was without fault, and whose parent, attorney, or agent was without fault, in connection with the overpayment, if adjustment on account of such overpayment in such case would defeat the purposes of this part, or be against equity or good conscience, or (because of the small amount involved) impede efficient or effective administration of this part.

"HEARINGS AND REVIEW, AND PROCEDURES

"SEC. 2022. (a)(1) The Secretary shall provide reasonable notice and opportunity for a hearing to any child who is or claims to be eligible for child support payments under this part and is in disagreement with any determination under this part with respect to his eligiblity for payments, or the amount of such payments, if such child requests a hearing on the matter in disagreement within thirty days after notice of such determination is received.

"(2) Determination on the basis of such hearing shall be made within thirty days after the individual requests the hearing as provided in paragraph (1).

"(3) The final determination of the Secretary after a hearing under paragraph (1) shall be subject to judicial review as provided in section 205(g) to the same extent as the Secretary's final determinations under section 205; except that the determination of the Secretary after such hearing as to any fact shall be final and conclusive and not subject to review by any court.

"(b)(1) The provisions of section 207 and subsections (a), (d) (e), and (f) of section 205 shall apply with respect to this part to the same extent as they apply in the case of title II.

"(2) To the extent the Secretary finds it will promote the achievement of the objectives of this part, qualified persons may be appointed to serve as hearing examiners in hearings under subsection (a) without meeting the specific standards prescribed for hearing examiners by or under subchapter II of chapter 5 of title 15, United States Code.

"(3) The Secretary may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys, as hereinafter provided, representing claimants before the Secretary under this part, and may require of such agents or other persons, before being recognized as representatives of claimants, that they shall show they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, territory, district, or insular possession of his residence or before the Supreme Court of the United States or the interior Federal courts, shall be entitled to represent claimants before the Secretary. The Secretary may, after due notice and opportunity for hearing, suspend or prohibit from further practice before him any such person, agent, or attorney who refuses to comply with the Secretary's rules and regulations or who violates any provision of this paragraph for which a penalty is prescribed. The Secretary may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Secretary under this part, and any agreement in violation of such rules and regulations shall be void. Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this part by word, circular, letter, or advertisement, or who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Secretary, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or both.

"(c) The Secretary shall prescribe such requirements with respect to the furnishing of relevant data and material, and the reporting of events and changes in circumstances, as may be necessary for the effec-

tive and efficient administration of this part. The payment of child support payments to which a child is otherwise entitled shall be conditioned upon compliance with such requirements.

"PENALTIES FOR FRAUD

"SEC. 2023. Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any child support payment under this part.

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such payments,

"(3) being the parent, guardian, attorney, or agent of any child and having knowledge of the occurrence of any event affecting such child's initial or continued right to any such payments, conceals or fails to disclose such event with an intent fraudulently to secure such payments either in a greater amount than is due or when no such payments are authorized, or

"(4) having made application to receive any such payment for the use and benefit of another and having received it, knowingly and willfully converts such payment or any part thereof to a use other than for the use and benefit of such other person,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"USE OF STATE WELFARE AGENCIES FOR ADMINISTRATION

"SEC. 2024. (a) The Secretary shall enter into an agreement with any State which is able and willing to enter into such an agreement under which the State agency administering or supervising the administration of the State plan of such State approved under part A of title IV will, on behalf of the Secretary, make in such State child support payments to the children residing in such State who are entitled to such payments, and make such determinations with respect to eligibility for and the amount of such payments as may be specified in the agreement.

"(b) The cost of carrying out any such agreement shall be paid to the State by the Secretary, from moneys in the security fund, in advance or by way of reimbursement and in such installments as may be agreed upon between such State and the Secretary.

"RECOVERY FROM PARENTS OF AMOUNTS PAID AS CHILD SUPPORT PAYMENTS

"SEC. 2025. (a) Any child support payments made under this part to any child shall be considered to have been made for the benefit of the parent of such child whose failure to make court ordered payments for the support and maintenance of such child gave rise to such child's entitlement to child support payments under this part, and such parent shall be liable to the United States for the amount of any such payments plus interest on such amount computed at the rate of 8 per centum per annum.

"(b) At the earliest practicable date after any child has first been paid child support payments under this part, the Secretary shall notify the Attorney General of that fact and shall advise the Attorney General of the name and address of such child and the name of the parent of such child whose failure to make court ordered payments for the support and maintenance of such child gave rise to such child's entitlement to child support payments under this part. Such notification shall, if the Secretary (utilizing the authority conferred upon him under part A) is able to provide the same, contain the most recent address and place of employment of such parent.

"(c)(1) At the earliest practicable date after having received any notification from the Secretary under subsection (b) with respect to any parent, the Attorney General shall initiate appropriate proceedings, including the filing of suit in the appropriate United States district court, for the recovery of the amounts due the United States from such parent by reason of the provisions of this section. Any amount for which any parent is liable to the United States under this section shall be treated as a debt due and owing to the United States, and may be deducted from any amount otherwise due such parent or becoming due to such parent at any time from any officer or agency of the United States.

"(2) If at the end of any taxable year of any parent having a liability to the United States under this section, there remains unpaid any amount of such liability, any credit to which such parent is otherwise entitled under section 31(a) of the Internal Revenue Code of 1954 shall be reduced by the amount of such unpaid liability.

"(d) Amounts recovered from any parent under this section (whether by any deduction or reduction authorized under subsection (c) or otherwise) shall be transmitted to the Secretary of the Treasury for deposit by him in the security fund.

"DEFINITIONS

"SEC. 2026. For purposes of this part—

"(1) the term 'child' means an individual under 18 years of age, or an individual over 18 years of age if such individual is under a disability (as defined in section 223(d)(1)(A)) which began before he attained such age; and

"(2) an individual shall be considered to be the parent of any child if such individual has been determined, by a court of competent jurisdiction, to have a parental duty to provide for the support and maintenance of such child and has been ordered by such court to provide for such support and maintenance.

"PART C—OBLIGATIONS OF PARENTS OF CHILDREN RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN

"FINANCIAL OBLIGATION OF DESERTING PARENT

"SEC. 2030. (a) If aid under a State plan approved under part A of title IV is provided to the spouse, child, or children of an individual during any period for which such individual has deserted such spouse, child, or children, such individual shall be liable to the United States in an amount equal to the Federal share (as computed by the Secretary in accordance with standards prescribed by him) of such aid furnished during such period.

"(b) The Secretary shall issue such regulations and make such arrangement with State agencies administering or supervising the administration of State plans approved under part A of title IV as may be necessary to assure the provision to him by such agencies of any information which such agencies have or can obtain and which will be helpful in identifying and locating any individual who has a liability to the United States under subsection (a).

"(c) The Secretary shall promptly provide to the Attorney General any information which will be helpful to him in instituting appropriate proceedings for the recovery of amounts for which individuals are liable to the United States (including information obtained by the Secretary under authority of section 2011).

"(d) Any amount owing to the United States by reason of the provisions of subsection (a) may be recovered in the manner authorized by section 2025 for the recovery of liabilities owed to the United States by reason of the provisions of such section.

"(e) Any amounts recovered under this section (whether by any deduction or deduction authorized under section 2025(c) or otherwise) shall be deposited in the Treasury as miscellaneous receipts.

"DUTY OF ADULT RECIPIENTS OF AID TO FAMILIES WITH DEPENDENT CHILDREN TO PROVIDE INFORMATION CONCERNING DESERTING PARENTS

"SEC. 2031. (a) If any child has been deprived of parental support or care by reason of the continued absence from the home of a parent and is a recipient of aid to families with dependent children under a State plan approved under part A of title IV, it shall be the duty of any individual, who is the relative with whom such child is living (within the meaning of the 'relative with whom any dependent child is living', as defined in section 406(c)) promptly to disclose, to the local welfare office administering such plan for the area in which such individual resides, any information which such individual has regarding the identity, address, or place of employment or the parent of such child who, by reason of his continued absence from the home, has deprived such child of parental support or care.

"(b) Any individual, having a duty under subsection (a) to disclose information which he possesses and who willfully fails to disclose such information as provided in subsection (a), shall be fined not more than $1,000 and imprisoned for not more than one year.

"PART D—MISCELLANEOUS PROVISIONS

"PENALTY FOR TRAVEL IN INTERSTATE OR FOREIGN COMMERCE TO AVOID PARENTAL RESPONSIBILITIES

"SEC. 2040. Whoever travels from one place to another in interstate or foreign commerce, for the purpose of avoiding any responsibility imposed upon him under the law of any State for the support and maintenance of his child or children, shall be fined not more than $1,000 and imprisoned for not more than one year.

"DUTY OF POVERTY LAWYERS TO ASSIST IN SECURING CHILD SUPPORT

"SEC. 2041. (a) Notwithstanding any other provision of law, legal services programs established pursuant to section 222(a)(3) of the Economic Opportunity Act of 1964 shall be operated in such manner as to give first priority to cases involving the securing of parental support for children who have been abandoned by a parent.

"(b)(1) Whenever any State agency administering or supervising the administration of any State plan approved under part A of title IV determines that any child applying for or receiving aid under such plan has been abandoned by a parent, it shall be the duty of such agency to refer such child (or the adult relative with whom such child is living) to any legal services program (as referred to in subsection (a)) located in the area in which such child resides, for the purpose of obtaining legal assistance under such program in securing from such parent support for such child.

"(2) The Secretary is authorized to issue such regulations and to take such actions as may be necessary or appropriate to assure that State agencies having the duty described in paragraph (1) will carry out such duty.

"(c) Notwithstanding any other provision of law, on and after the period beginning one month after the date of enactment of this title, no Federal funds shall be available for the operation of any legal service program (referred to in subsection (a)) unless the Director of the Office of Economic Opportunity is satisfied that such program will be operated in a manner consistent with the provisions of subsection (a)."

By Mr. HANSEN:

S. 1843. A bill to authorize the granting of mineral rights to certain homestead patentees who were wrongfully deprived of such rights. Referred to the

Committee on Interior and Insular Affairs.

EQUITY FOR HOMESTEADERS

Mr. HANSEN. Mr. President, I send to the desk for appropriate reference a bill to enable certain homesteaders or their successors in title to obtain equity from their Government.

The bill would accomplish this purpose by authorizing a homestead titleholder who has been wrongfully deprived by the Government of the minerals in his land to apply to the Secretary of the Interior for conveyance to him of those minerals. The homesteader shall submit proof that the withholding of the minerals was the result of error, whether intentional or not, or that he was unduly pressured into waiving his mineral rights through ignorance or fear; or that there was some other wrongful or mistaken act on the part of the Federal officials involved in the issuance of the homestead patent.

If the homestead titleholder's proof is accepted, the Secretary is to convey the minerals to the surface owner. The burden of proof is on the homesteader. All existing rights of all persons, whether under the mining laws or under the mineral leasing laws, are fully protected.

As was pointed out in the recent report of the Public Land Law Review Commission, a great many laws were enacted in years gone by under which a citizen could go out on vacant, unappropriated public lands, make an "entry," and by performing certain work and complying with specific precedures, he could get title to a given tract, the size of which might vary from 160 acres to 640 acres.

Under certain of these homestead laws, title to the minerals passed with the surface to the homesteader, provided the land had not been classified as having known mineral values. Under other laws, the Government was required to reserve coal, oil, and gas deposits whether or not there was any reason to believe such deposits did in fact exist.

The variety of laws, procedures, and situations led to a great deal of confusion and there were instances in which a homesteader did not get the minerals in his land to which he was rightfully entitled under the law and facts at the time he acquired title to the surface. On occasion, Congress has passed and the President has signed private laws for the relief of individual homesteaders or for specified groups, such as the Kenai homesteaders in Alaska.

The bill I am introducing today is for a general law to provide for rectification of this situation and enable homestead titleholders to obtain equity if they were wrongfully deprived of the minerals in their lands. No existing rights acquired by others, such as those of a Federal lessee on the land or a claimant under the mining laws, would in any way be interfered with or invalidated.

By Mr. ABOUREZK (for himself, Mr. BROCK, Mr. COOK, Mr. CASE, Mr. GRAVEL, Mr. MCGOVERN, Mr. FULBRIGHT, Mr. CRANSTON, Mr. TALMADGE, Mr. PERCY, Mr. RANDOLPH, Mr. HATFIELD, Mr. MCGEE, and Mr. JOHNSTON):

S. 1844. A bill to provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes. Referred to the Committee on Rules and Administration.

Mr. ABOUREZK. Mr. President, I am today introducing a bill whose purpose it is to establish an American Folklife Center in the Library of Congress. It is similar in substance to S. 1930, which was introduced in the 91st Congress by Senator Fred Harris and others.

I am pleased to note that I have already been joined in this effort by Senators BROCK, COOK, CASE, GRAVEL, MCGOVERN, FULBRIGHT, CRANSTON, TALMADGE, PERCY, RANDOLPH, HATFIELD, MCGEE, and JOHNSTON.

Mr. President, the American Folklife Preservation Act is, in a certain sense, a preservation bill. It is intended to preserve our folk culture, to help us retain the crafts, the music, and the customs which belong to the American people. It is intended to seek out, before it is too late, the practitioners of these folk traditions, and to save their knowledge. It is intended to retain, in the minds of our children, a memory of their ethnic heritage, and of their heritage of democratic unity.

But, in a more important sense, this bill is not intended merely to salvage a few memories from the past. Folk culture, by definition, is the culture of people, of our people. It is not the classical culture of Western Europe, whose grandeur was often unavailable to our forefathers.

Nor is it mass culture, created by technology and lowered to a common denominator by the exigencies of a mass market. Rather, it is a living culture, which is shaped by each individual who participates in it. It is, in a very real sense, the soul of the American people.

Yet, our Government has given almost no attention to this most vital area. We have established two magnificent endowments, the National Endowment for the Arts, and the National Endowment for the Humanities, and funded them most liberally. They have done a great deal for the arts in this country. Yet, virtually none of their millions has been spent on folk culture. Nor has any other institution provided even a faintly adequate program in this area. This must be remedied.

I must say in all fairness, however, that in many departments of government, there have been sporadic attempts to institute programs in the field of folklore. There has, unfortunately, been little coordination among these programs, and little input from those who are most knowledgeable in the field. It would be the purpose of my bill to establish that coordination. This is not an entity that would compete with existing programs, but one which would seek to make their efforts more effective.

I propose that we begin our task by the establishment of a folklife center. This need not be a giant, multimillion dollar endowment. Rather it must be a collection of scholars, men and women who are knowledgeable in the field of folklore. It must be run by persons who can communicate their feeling that Fiddlin' John Carson is as important as any rock group, that the blues of the Mississippi Delta is one of the bases for virtually all our present popular music. We need to exhibit folk crafts and artifacts on the same basis as other art. And we must help the young performers, and young craftsmen, and young people who are keeping the customs, and music, and art of their fathers alive.

I feel we can begin to do all these things best by establishing this American Folklore Center. I hope that my colleagues will join with me in sponsoring this worthy bill.

I ask unanimous consent that the bill be printed at this point in the RECORD.

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

S. 1844

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 "American Folklife Preservation Act".

DECLARATION OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds and declares—

(1) that the diversity inherent in American folklife has contributed greatly to the cultural richness of the Nation and has fostered a sense of individuality and identity among the American people;

(2) that the history of the United States effectively demonstrates that building a strong nation does not require the sacrifice of cultural differences;

(3) that American folklife has a fundamental influence on the desires, beliefs, values, and character of the American people;

(4) that it is appropriate and necessary for the Federal Government to support research and scholarship in American folklife in order to contribute to an understanding of the complex problems of the basic desires, beliefs, and values of the American people in both rural and urban areas;

(5) that the encouragement and support of American folklife, while primarily a matter for private and local initiative, is also an appropriate matter of concern to the Federal Government; and

(6) that it is in the interest of the general welfare of the Nation to preserve, support, revitalize, and disseminate American folklife traditions and arts.

(b) It is therefore the purpose of this Act to establish in the Library of Congress an American Folklife Center to develop, promote, and implement a program of support for American folklife.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "American folklife" means the traditional customs, beliefs, dances, songs, tales, sayings, art, crafts, and other expressions of the spirit common to a group of people within any area of the United States, and includes music (vocal and instrumental), dance, drama, lore, beliefs, language, humor, handicraft, painting, sculpture, architecture, other forms of creative and artistic expression, and skills related to the preservation, presentation, performance, and exhibition of the cultural heritage of any family, ethnic, religious, occupational, racial, regional, or other grouping of American people;

(2) the term "Board" means the Board of Trustees of the Center;

(3) the term "Center" means the American Folklife Center established under this Act;

(4) the term "group" includes any State or public agency or institution and any nonprofit society, institution, organization, association, or establishment in the United States;

(5) the term "Librarian" means the Librarian of Congress;

(6) the term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, and the Virgin Islands; and

(7) the term "workshop" means an activity the primary purpose of which is to encourage the development of skills, appreciation, or enjoyment of American folklife among amateur, student, or nonprofessional participants, or to promote scholarship or teaching among the participants.

ESTABLISHMENT OF CENTER

SEC. 4. (a) There is hereby established in the Library of Congress an American Folklife Center.

(b) The Center shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed as follows—

(1) four members appointed by the President from among individuals who are officials of Federal departments and agencies concerned with some aspect of American folklife traditions and arts

(2) eight members appointed by the Librarian of Congress from among individuals from private life who are widely recognized by virtue of their scholarship, experience, creativity, or interest in American folklife traditions and arts;

(3) the Librarian of Congress;

(4) the Secretary of the Smithsonian Institution;

(5) the Chairman of the National Endowment for the Arts;

(6) the Chairman of the National Endowment for the Humanities; and

(7) the Director of the Center.

In making appointments from private life under clause 2, the Librarian shall give due consideration to the appointment of individuals who collectively will provide appropriate regional balance on the Board.

(c) The term of office of each appointed member of the Board shall be six years; except that (1) (A) the members first appointed under clause (1) of subsection (b) shall serve as designated by the President, one for a term of two years, two for a term of four years, and one for a term of six years, and (B) the members first appointed under clause (2) of subsection (b) shall serve as designated by the Librarian, two for terms of two years, four for terms of four years, and two for terms of six years; and (2) any member appointed to fill a vacancy occuring prior to the expiration of the term to which his predecessor was appointed shall be appointed for the remainder of such term.

(d) Members of the Board who are not regular full-time employees of the United States shall be entitled, while serving on business of the Center, to receive compensation at rates fixed by the Librarian, but not exceeding $100 per diem, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(e) (1) The Librarian shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve for a term of one year. Thereafter each Chairman and Vice Chairman shall be elected for a term of two years. The Vice Chairman shall perform the duties of the Chairman in his absence. In case of a vacancy occurring in the chairmanship or vice-chairmanship, the Board shall elect a member to fill the vacancy for the remainder of the unexpired term.

(2) A majority of the members of the Board shall constitute a quorum.

(f) After consultation with the Board, the Librarian shall appoint the Director of the Center. The basic pay of the Director shall be at a per year rate equal to the rate of pay provided for level V of the Executive Schedule under section 5316 of title 5, United States Code. The Librarian upon the recommendation of the Director shall appoint a Deputy Director of the Center. The basic pay of the Deputy Director shall be fixed at a rate not to exceed GS–18 of the General Schedule under section 5332 of such title.

(g) (1) The Director shall be the chief executive officer of the Center. He shall carry out the programs of the Center subject to the supervision and direction of the Board, and shall carry out such functions as the Board may delegate to him consistent with the provisions of this Act.

(2) The Deputy Director shall perform such functions as the Director, with the approval of the Librarian, may prescribe, and shall serve as Acting Director during the absence or disability of the Director or in the event of a vacancy in the office of the Director.

FUNCTIONS OF THE CENTER

SEC. 5. The Center and it director is authorized to—

1) enter into, without regard to federal procurement statutes and regulations, contracts with, make grants and loans to, and award scholarships to individuals and groups for programs for the—

A) initiation, encouragement, support, organization, and promotion of research, scholarship, and training in American folklife;

B) initiation promotion, support, organization, and production of live performances, festivals, exhibits, and workshops related to American folklife;

C) purchase, receipt, production, arrangement for and support of, the production of exhibitions, displays, and presentations (including presentations by still and motion picture films, and audio and visual magnetic tape recordings) which represent or illustrate some aspect of American folklife; and

D) purchase, production, arrangement for and support of, the production of exhibitions, projects, presentations, and materials specially designed for classroom use representing or illustrating some aspect of American folklife;

(2) establish and maintain in conjunction with any Federal department, agency, or institution a national archive and center for American folklife;

(3) procure, receive, purchase, and collect for preservation or retention in an appropriate archive creative works, exhibitions, presentations, objects, materials, artifacts, and audio and visual records (including still and motion picture film records, audio and visual magnetic tape recordings, written records, and manuscripts) which represent or illustrate some aspect of American folklife;

(4) loan, or otherwise make available, through Library of Congress procedures, any item in the archive established under this Act to any individual or group;

(5) present, display, exhibit, disseminate, communicate and broadcast to local, regional, State, or national audiences any exhibition, display, or presentation referred to in clause (3) of this section or any item in the archive established pursuant to clause (2) of this section, by making appropriate arrangements, including contracts, loans, and grants with public, nonprofit, and private radio and television broadcasters, museums, educational institutions, and such other individuals and organizations, including corporations, as the Board deems appropriate;

(6) loan, lease, or otherwise make available to public, private, and nonprofit educational institutions such exhibitions, programs, presentations, and material developed pursuant to clause (1) (D) of this subsection as the Board deems appropriate; and

(7) develop and implement other appropriate programs to preserve, support, revitalize, and disseminate American folklife.

LIMITATIONS ON GRANTS

SEC. 6. (a) No payment shall be made pursuant to this Act to carry out any research or training over a period in excess of two years except that with the concurrence of at least two-thirds of the members of the Board of the Center such research or training may be carried out over a period of not to exceed five years.

(b) Assistance pursuant to this Act shall not cover the cost of land acquisition, construction, building acquisitions, or acquisition of major equipment.

(c) No individual formerly in the employment of the Federal Government shall be eligible to receive any grant or other assistance pursuant to this Act, or to serve as a trustee of the Center, in the two-year period following the termination of such employment.

ADMINISTRATIVE PROVISIONS

SEC. 7. (a) In addition to any authority vested in it by other provisions of this Act, the Center, and its Director, in carrying out its functions, is authorized to—

(1) prescribe such regulations as it deems necessary;

(2) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it be for the purposes of the Center and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions, without reference to Federal property disposal statutes;

(3) in the discretion of the Center, receive (and use, sell, or otherwise dispose of, in accordance with clause (2)) money and other property donated, bequeathed, or devised to the Center with a condition or restriction, including a condition that the Center use other funds of the Center for the purpose of the gift;

(4) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of the Act in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the Center may appoint and fix the compensation of a reasonable number of personnel without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall receive compensation in excess of the rate received by the Deputy Director of the Center;

(5) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, at rates for individuals not to exceed $100 per diem;

(6) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(7) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of the Act, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); and

(8) make advances, progress, and other payments which the Board deems necessary under this Act without regard to the pro-

visions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529).

(b) The Center and its director shall submit to the Librarian for inclusion in the annual report of the Library of Congress to the Congress an annual report of its operations under this Act, which shall include a detailed statement of all private and public funds received and expended by it, and such recommendations as the Center deems appropriate.

AUTHORIZATION

SEC. 8. There are authorized to be appropriated to the Center such sums as may be necessary to carry out the provisions of this Act.

By Mr. BAYH:

S. 1845. A bill to authorize the Secretary of Health, Education, and Welfare to make grants to conduct special educational programs and activities concerning the use of drugs and for other related educational purposes. Referred to the Committee on Labor and Public Welfare.

DRUG ABUSE EDUCATION EXTENSION ACT OF 1973

Mr. BAYH. Mr. President, the rising incidence of drug addiction and abuse, particularly among young people, is one of the most critical problems facing our Nation. As chairman of the Juvenile Delinquency Subcommittee, I have been actively involved in investigating the diversion and abuse of legitimately produced narcotic drugs as well as nonnarcotic psychotropic drugs, such as amphetamines, barbiturates, and methaqualone.

We have learned from numerous witnesses that many legitimate domestically produced psychotropic drugs are more readily available than heroin, and can be as dangerous to the abuser. Conservative estimates indicate that at least 14 million Americans have abused methamphetamines, amphetamines, barbiturates, and other prescription drugs. Even if the war on heroin should result in total victory, the epidemic of drug abuse which plagues American society would not be vanquished; for the source of supply for growing legions of addicts is a domestic one. I have been particularly concerned with finding out how these drugs are diverted from the legal chain of distribution into the illicit market and what can be done to stop this diversion.

Overproduction of these drugs, inadequate security precautions in their storage and distribution, unscrupulous physicians who overprescribe or who sell prescriptions, thefts from pharmacies and warehouses—these are some of the factors making dangerous drugs readily available to the abuser.

Quite often the feared and despised "pusher" is a family's own medicine cabinet. Casual attitudes toward potentially destructive drugs, coupled with abundant supply, are intimately linked with current trends of drug abuse.

During the 2 years that I have been chairman of the Juvenile Delinquency Subcommittee, I have made great efforts to insure that a number of these dangerous drugs—amphetamines, barbiturates, and methaqualone—be subjected to stricter production and distribution controls, and I have introduced legislation to make sure that this was done. The administrative agencies responsible for enforcing our dangerous drug laws, the U.S. Bureau of Narcotics and Dangerous Drugs, and the Food and Drug Administration, have finally responded to congressional concern by doing administratively what I proposed to accomplish through legislation; namely, they have placed the amphetamines, shorter-acting barbiturates, and methaqualone under the substantially stricter production and distribution controls of schedule II of the Controlled Substances Act.

While our efforts to curtail diversion of legitimately produced narcotic and nonnarcotic dangerous drugs are critical in reducing drug abuse in this country, any real long-range success in combating drugs must also involve extensive programs of public education. Most Americans are simply not aware of the tragic effects of drug abuse, particularly when the drug abused is a familiar, prescription drug. Our subcommittee hearings revealed that many people distinguish "hard" drugs, such as heroin and cocaine, from nonnarcotic "soft" drugs which are produced for legitimate medical purposes. This unfortunate distinction has served to perpetuate the belief that "soft" drugs, such as barbiturates, amphetamines, and methaqualone, involve little risk to the abuser. As the many witnesses who have appeared before the subcommittee, particularly the former drug addicts and abusers, made abundantly clear, nothing could be further from the truth.

In order to make sure that Americans get the kind of drug information that is needed to prevent escalating abuse, I am introducing today a 1-year extension of the Drug Abuse Education Act of 1970, which expires on June 30. The Drug Abuse Education Act authorizes the Secretary of the Department of Health, Education, and Welfare to make grants to encourage the development and implementation of new and improved curriculums in drug abuse education for public and private elementary, secondary, and adult education programs; provide training programs for teachers, counselors, law enforcement officials, and other public service and community leaders; develop and operate community education programs on drug abuse; and provide for coordinating Federal activities in drug abuse education.

In my proposed 1-year extension of the act, I have provided authorization for appropriations at the same level as fiscal year 1973: $14 million for drug abuse education projects and $14 million for community education projects. I have added a requirement that 10 percent of the appropriated funds be used for evaluation purposes.

My bill makes one major change in the existing Drug Abuse Education Act. It requires that independent, thorough evaluations be conducted, at least annually, of all drug abuse education projects and community education projects funded under this act. These evaluations will include an assessment of the impact of these programs in reducing the incidence and frequency of drug abuse, as well as an examination of the strengths and weaknesses of each program, particularly with regard to reaching different age and socioeconomic groups in the communities served. In addition, the Secretary of Health, Education, and Welfare, responsible for administering the act, is required on the basis of these evaluations, to report to the Congress on the overall effectiveness of these programs in actually reducing drug abuse in the United States.

I believe that systematic evaluation must be made part of this vital prevention effort. There have been isolated reports from some communities that drug abuse education programs have actually increased the amount of drug experimentation and abuse. That is clearly not the goal of the programs funded under this act. We must make sure that programs are developed that both convey accurate information and also discourage the young person from trying out the dangerous drug. That is why regular, thorough evaluation is so necessary. We must find out what a program is actually accomplishing before we seek to continue it, expand it, or replicate it in other communities.

Recent studies in New York City indicate that drug prevention programing in schools can really work. A survey of 900 students who took part in special group counseling sessions at nine New York high schools showed a 49 percent reduction in disciplinary referrals, a 66 percent reduction in unsatisfactory conduct ratings, a 39 percent reduction in the number of major subjects failed and an increase of slightly over 5 points in the students' overall grade-point average. These are very encouraging results, confirming that truancy, disruptive classroom behavior and poor school performance are strongly associated with drug abuse. Drug education programing is one of the best preventive measures we can take; and one which will have direct results in school performance.

In my own State of Indiana, the Indiana State Department of Education, the Indianapolis Public School system, and 16 mini-grant teams, consisting of school systems, mental health organizations, and public and private non-profit organizations, received over $179,000 in grants for drug abuse education programs in fiscal 1972. During this fiscal year, the number of mini-grant teams has been increased to 23, although the total level of funding has remained the same.

As a result of the programs developed in Indiana under the Drug Abuse Education Act, over 1,400 teachers, counselors, law enforcement officials, and other public service and community leaders have been trained in drug abuse prevention methods. More than 40,000 Hoosiers have been served by these programs. Indiana, has not, as yet, experienced the full impact of the drug abuse epidemic. I am hopeful that through community-based drug abuse prevention programs such as those provided under this act, we can ward off the growing drug menace not only in Indiana, but across the Nation.

I ask unanimous consent that the bill and an 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. 1845

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Drug Abuse Education Extension Act of 1973".

STATEMENT OF PURPOSE

SEC. 2. The Drug Abuse Education Act of 1970 is amended to read as follows:

"(a) The Congress hereby finds and declares that drug abuse diminishes the strength and vitality of the people of our Nation; that such abuse of dangerous drugs is increasing in urban and suburban areas; that there is a dearth of creative projects designed to educate students and others about drugs and their abuse; and that prevention and control of such drug abuse require intensive and coordinated efforts on the part of both governmental and private groups.

"(b) It is the purpose of this Act to encourage the development of new and improved curricula on the problems of drug abuse; to demonstrate the use of such curricula in model educational programs and to evaluate the effectiveness thereof; to disseminate curricular materials and significant information for use in educational programs throughout the Nation; to provide training programs for teachers, counselors, law enforcement officials, and other public service and community leaders; and to offer community education programs for parents and others, on drug abuse problems.

DRUG ABUSE EDUCATION PROJECTS

"SEC. 3. (a) The Secretary shall carry out a program of making grants to, and contracts with, institutions of higher education. State and local educational agencies, and other public and private education or research agencies, institutions, and organizations to support research, demonstration, and pilot projects designed to educate the public on problems related to drug abuse.

"(b) Funds appropriated for grants and contracts under this section shall be available for such activities as—

"(1) projects for the development of curricula on the use and abuse of drugs, including the evaluation and selection of exemplary existing materials and the preparation of new and improved curricular materials for use in elementary, secondary, adult, and community education programs;

"(2) projects designed to demonstrate, and test the effectiveness of curricula described in clause (1) (whether developed with assistance under this Act or otherwise);

"(3) in the case of applicants who have conducted projects under clause (2), projects for the dissemination of curricular materials and other significant information regarding the use and abuse of drugs to public and private elementary, secondary, adult and community education programs;

"(4) preservice and inservice training programs on drug abuse (including courses of study, institutes, seminars, workshops, and conferences) for teachers, counselors, and other educational personnel, law enforcement officials, and other public service and community leaders and personnel;

"(5) community education programs on drug abuse (including seminars, workshops, and conferences) especially for parents and others in the community;

"(6) programs or projects to recruit, train, organize and employ professional and other persons, including former drug abusers or drug dependent persons, to organize and participate in programs of public education in drug abuse.

"(c) In addition to the purposes described in subsection (b) of this section, funds in an amount not to exceed 5 per centum of the sums appropriated to carry out this section may be made available for the payment of reasonable and necessary expenses of State educational agencies in assisting local educational agencies in the planning, development, and implementation of drug abuse education programs.

"(d) (1) Financial assistance for a project under this section may be made only upon application at such time or times, in such manner, and containing or accompanied by such information as the Secretary deems necessary, and only if such application—

"(A) provides that the activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

"(B) provides for carrying out one or more projects or programs eligible for assistance under subsection (b) of this section and provides for such methods of administration as are necessary for the proper and efficient operation of such projects or programs;

"(C) sets forth policies and procedures which assure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in subsection (b) of this section, and in no case supplant such funds; and

"(D) provides for making such reports, in such form and containing such information, as the Secretary may reasonably require, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(2) Applications from local educational agencies for financial assistance under this section may be approved by the Secretary only if the State educational agency has been notified of the application and been given the opportunity to offer recommendations.

"(3) Amendments of applications shall, except as the Secretary may otherwise provide by or pursuant to regulation, be subject to approval in the same manner.

"(e) There are hereby authorized to be appropriated $14,000,000 for the fiscal year beginning July 1, 1973, for the purpose of carrying out this section. Sums appropriated pursuant to this section shall remain available until expended.

COMMUNITY EDUCATION PROJECTS

SEC. 4. There is authorized to be appropriated $14,000,000 for the fiscal year beginning July 1, 1973, for grants or contracts to carry out the provisions of this section. From the sums available therefore for any fiscal year, the Secretary of Health, Education, and Welfare is authorized to make grants to, or enter into contracts with, public or private nonprofit agencies, organizations, and institutions for planning and carrying out community-oriented education programs on drug abuse and drug dependency for the benefit of interested and concerned parents, young persons, community leaders, and other individuals and groups within a community. Such programs may include, among others, seminars, workshops, conferences, telephone counseling and information services to provide advice, information, or assistance to individuals with respect to drug abuse or drug dependency problems, the operation of centers designed to serve as a locale which is available, with or without appointment or prior arrangement, to individuals seeking to discuss or obtain information, advice, or assistance with respect to drug abuse or drug dependency problems, arrangements involving the availability of so-called "peer group" leadership programs, and programs establishing and making available procedures and means of coordinating and exchanging ideas, information, and other data involving drug abuse and drug dependency problems. Such programs shall, to the extent feasible, (A) provide for the use of adequate personnel from similar social, cultural, age, ethnic, and racial backgrounds as those of the individuals served under any such program, (B) include a comprehensive and coordinated range of services, and (C) be integrated with, and involve the active participation of a wide range of public and nongovernmental agencies.

TECHNICAL ASSISTANCE

"SEC. 5. The Secretary and the Attorney General (on matters of law enforcement) shall, when requested, render technical assistance to local educational agencies, public and private nonprofit organizations, and institutions of higher education in the development and implementation of programs of drug abuse education. Such technical assistance may, among other activities, include making available to such agencies or institutions information regarding effective methods of coping with problems of drug abuse, and making available to such agencies or institutions personnel of the Department of Health, Education, and Welfare and the Department of Justice, or other persons qualified to advise and assist in coping with such problems or carrying out a drug abuse education program.

EVALUATION

"SEC. 6. (a) The Secretary shall provide for independent, thorough evaluation, at least annually, of all drug abuse education projects funded under section 3 and all community education projects funded under section 4 of this Act. Such evaluation shall include, but is not limited to, the following factors:

"(1) a careful assessment of the impact of such programs and the materials used in such programs, including curriculums in use in elementary, secondary, and adult and community education programs involved in projects described in section 3(b)(2), in reducing the incidence and frequency of the abuse of narcotic and nonnarcotic dangerous drugs in the communities served;

"(2) an examination of the strengths and weaknesses of such programs, particularly with regard to reaching different age and socioeconomic groups in the communities served; and

"(3) the relative effectiveness of these types of programs in reducing drug abuse as compared to other possible preventive efforts.

"(b) On the basis of these evaluations and other information, the Secretary shall make a comprehensive annual report to the Congress on the immediate and long-range merit of programs funded under this Act in reducing drug abuse in the United States, with particular emphasis on the relative strengths and weaknesses of such programs. The report shall also include the Secretary's recommendation for any legislative or programmatic changes necessary to make drug abuse education efforts more effective.

"(c) At least 10 per centum of the funds appropriated under this Act shall be used for evaluation purposes as provided by this section.

PAYMENTS

"SEC. 7. Payments under this Act may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

ADMINISTRATION

"SEC. 8. In administering the provisions of this Act, the Secretary is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or private agency or institution in accordance with appropriate agreements, and to pay for such services either in ad-

vance or by way of reimbursement, as may be agreed upon.

DEFINITIONS

"SEC. 9. As used in this Act—

"(a) The term 'Secretary' means the Secretary of Health, Education, and Welfare.

"(b) The term 'State' includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands."

SECTION-BY-SECTION ANALYSIS—DRUG ABUSE EDUCATION EXTENSION ACT OF 1973

SHORT TITLE

Section 1. This section provides that the act may be cited as the Drug Abuse Education Extension Act of 1973.

STATEMENT OF PURPOSE

Section 2. This section amends the Drug Abuse Education Act of 1970 as follows:

(a) This subsection states the finding that drug abuse "diminishes the strength and vitality of the people of our Nation," that such abuse is increasing, that there is a dearth of creative projects designed to educate students and others in this area, and that Government and private efforts are required to remedy the situation.

(b) This subsection states the purposes of the bill to be: To encourage the development of new and improved curricula to demonstrate their use and evaluate their effectiveness in model programs, to disseminate educational materials, to provide training programs for teachers, counselors, law enforcement officials, and other public service and community leaders, and to offer community education programs for parents and others.

DRUG ABUSE EDUCATION PROJECTS

Section 3. (a) This section authorizes the Secretary of Health, Education, and Welfare to make grants to, or contracts with, institutions of higher education, other public or private agencies, institutions, and organizations.

(b) This subsection provides that funds appropriated under this section for grants and contracts shall be available for activities such as:

(1) Curriculum development and preparation on the use and abuse of drugs;

(2) Projects to test the effectiveness of such curriculum;

(3) Dissemination of curricular materials and other information to public and private elementary, secondary, and adult education programs for applicants who have conducted projects;

(4) Preservice and inservice training programs on drug abuse for teachers, counselors, law enforcement officials, and other public service and community leaders;

(5) Community education programs on drug abuse (including seminars, workshops, and conferences) involving parents and others in the community; and

(6) Programs or projects to recruit, train, organize, and employ professionals, former drug users, and others to organize and participate in drug abuse education programs.

(c) This subsection provides that the Secretary may utilize up to 5 percent of the funds appropriated to carry out the act to pay reasonable and necessary expenses of State educational agencies for planning, development, and implementation of drug abuse education programs.

(d) This subsection contains certain routine house-keeping provisions such as the provision that any amendment to an application under the act shall be considered in the same manner as original applications except as the Secretary may otherwise provide by regulation.

(e) This section authorizes appropriations of $14 million for the fiscal year beginning July 1, 1973.

COMMUNITY EDUCATION PROJECTS

Section 4. This section authorizes the Secretary of Health, Education, and Welfare to make grants or contracts with public or private nonprofit agencies, organizations, and institutions for community-oriented education projects on drug abuse and drug dependency. The projects include, but are not limited to, personal and telephone counseling and information services, neighborhood aid and information centers, and peer group discussion programs.

This section authorizes appropriations of $14 million for the fiscal year beginning July 1, 1973.

TECHNICAL ASSISTANCE

Section 5. This section provides that the Secretary of Health, Education and Welfare and the Attorney General shall, when requested, render technical assistance to local educational agencies, public and private nonprofit organizations, and institutions of higher education in the development and implementation of drug abuse education programs.

EVALUATION

Section 6. (a) This section requires the Secretary to provide for thorough and independent evaluation, at least annually, of all drug abuse education projects and all community education projects funded under Sections 3 and 4 of this Act, including the following factors:

(1) assessment of the impact of such programs and the materials used in such programs in reducing the incidence and frequency of the abuse of narcotic and nonnarcotic dangerous drugs;

(2) examination of the strengths and weaknesses of such programs; and

(3) effectiveness of these types of programs in reducing drug abuse.

(b) This section also requires the Secretary to make a comprehensive annual report to Congress on the immediate and long range merit of programs funded under the Act as well as recommendations for any legislative or programmatic changes necessary to make drug abuse education more effective.

(c) Ten percent of the funds appropriated under this Act are reserved for evaluation.

PAYMENTS

Section 7. This section provides that payments under the act may be made in installments and in advance, or by way of reimbursement.

ADMINISTRATION

Section 8. This section authorizes the Secretary to utilize the services of other Federal or other public or private agencies in carrying out the act and to pay for such services either in advance or by way of reimbursement.

DEFINITIONS

Section 9. This section defines "Secretary" to mean the Secretary of Health, Education, and Welfare; and "State" to include, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

By Mr. McGOVERN (for himself, Mr. CURTIS, and Mr. ABOUREZK):

S. 1846. A bill to amend the Small Business Act by adding at the end thereof a new title. Referred to the Committee on Banking, Housing and Urban Affairs; and

S. 1847. A bill to amend the Disaster Relief Act of 1970. Referred to the Committee on Public Works.

THE INNOCENT VICTIMS OF WOUNDED KNEE

Mr. McGOVERN. Mr. President, I send to the desk for appropriate reference two bills on behalf of myself, the junior Senator from South Dakota (Mr. ABOUREZK), and the Senator from Nebraska (Mr. CURTIS), which, if adopted, would help the innocent victims of Wounded Knee recover from the damage the recent occupation made of their homes, their farms, and businesses.

The irony of that occupation is that it harmed many hundreds of the very people it was supposed to help. The residents of the Pine Ridge Reservation have never been well off. But now many have lost all they have. Homes and farms were burned, cattle slaughtered, and even the tribal artifacts in the most famous Sioux Museum were destroyed.

The following account from the Rapid City Journal is typical of many returning residents:

Martha Moose, 63, returned to Wounded Knee Wednesday, 70 days after the February morning she, her husband and four grandchildren left the village fearing for their lives.

What Mrs. Moose found when she returned to her two-room home was a scene an FBI agent described as being "so bad that you don't believe it even when you see it."

The floor was covered with clothing, letters, photographs, pieces of furniture, broken glass, trash and a lifetime collection of "things." Dried corn and cherries crunched underfoot. Parts of a bed were here and there and in one corner, a cookstove was broken and blackened. Windows were broken out and walls were battered.

Rubble was strewn outside. In the yard lay the bodies of the family's pets, two dogs shot to death and left for their owners to bury. In back of the house were the ashes of what had been a chicken coop and a storage shed.

Scrawled on the door and walls were the letters "A.I.M."

"They took what they wanted," Martha Moose said, "why did they break so much? I think I will cry to death."

The list of such personal tragedies is not limited to Indians or even the State of South Dakota. Those occupying Wounded Knee pillaged and foraged far and wide, raiding cattle and damaging property even in Nebraska. George Coates, whose nearby ranch was raided three times for food, is now living in a trailer with his family since during the last raid his house was burned to the ground. The Reverend and Mrs. Lansbury had their parsonage destroyed by fire. The Wounded Knee trading post no longer exists.

The question now is who shall pay the price of the destruction and suffering which occurred. As matters stand, the burden of reconstruction will fall principally upon those who suffered injury and damage. Few had sufficient insurance to cover their loss and fewer still have the resources to survive without further assistance. The State will do what it can but in the last analysis does not have the resources to do the job.

I think the Federal Government has a moral obligation to help the innocent victims of Wounded Knee. Without debating the wisdom of the Department of Justice in refraining from taking more forceful action, it is clear that much of the damage could have been avoided had the occupation ended earlier. Surely the obligation to aid in the reconstruction of Wounded Knee is as great as any obligation to aid in the reconstruction of

war-torn Indochina as proposed by the administration.

The first bill is an amendment to the Small Business Act. It would direct the Administrator to compensate any uninsured loss or injury to persons who were not willfully engaged in the disturbance at Wounded Knee, or any related disturbances, but who suffered as a result. The amount of such compensation would be 100 per cent of the fair market value of the property immediately before the incident, and would subrogate the Government of the United States to any claim the compensated person might have against a third party. We feel that this service can best be handled by the Small Business Administration through its local offices due to its expertise in cost evaluation.

The second bill, which is an amendment to the Disaster Relief Act of 1970, would clarify the President's authority to declare the area a disaster area. The Office of Emergency Preparedness is of the opinion that the statutory language "other catastrophes" does not encompass economic disasters caused by the acts of man, but only natural disasters.

This bill will make certain that it does. It should be noted that this amendment would not require that disaster relief be given in this instance, or in any future such disasters, but only enable the Governor of whichever state is involved to request "disaster area" designation and give the President the flexibility to act favorably on such a request.

The importance of such flexibility is demonstrated by the fact that 300 trailers now located near Rapid City in the custody of OEP are not available to be used at Wounded Knee. The Government is attempting the transfer of some trailers in the custody of the General Services Administration in New York City, With the minor modification of the law we propose, it would be possible to use trailers only 100 miles away, rather than those 2,000 miles away.

I sincerely hope, Mr. President, that we can act promptly on these bills. Our proposals are modest in scope. Preliminary reports indicate the costs would not exceed $5 million. And this small investment in the lives and hopes of the innocent victims of Wounded Knee would enable them to return to earning their living and leading their lives in a normal fashion after these many months of hardship.

I ask unanimous consent that the text of our bills be printed in the RECORD at this point.

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

S. 1846

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

CONGRESSIONAL FINDINGS

SECTION 1. The Congress finds that,

(a) Many innocent persons suffered injury and loss as a result of the disturbances at Wounded Knee, South Dakota, and other related disturbances;

(b) Many such injuries and losses occurred as a result of the forebearance of the Department of Justice in dealing with the disturbances; and

(c) The government of the United States has an obligation to compensate innocent persons for injuries and losses for which they would not otherwise receive compensation.

COMPENSATION

SEC. 2. The Administrator is authorized and directed to grant any innocent person for any uninsured loss or injury which arose out of, or was caused by, the disturbance at Wounded Knee, South Dakota, or any related disturbances as defined in Section 4 hereof, an amount equal to 100 per cent of such loss or injury.

REPORT TO CONGRESS

SEC. 3. The Administrator shall report to Congress within 30 days of enactment hereof on the amount and extent of damage resulting from such disturbances.

DEFINITIONS

SEC. 4. As used in this Act—

(a) "Innocent person" means any person or entity as to whom the Administrator has reasonable grounds to believe (1) was not willfully engaged in any such disturbances when the loss or injury occurred, and (2) was not responsible for such loss or injury.

(b) "Uninsured loss or injury" means any damage to property, personal or real (including livestock, loss of earnings or damage to business) or any personal injury which would not have occurred but for such disturbances and for which compensation would not otherwise be received; and

(c) "Related disturbance" means any disturbance or event occurring during the period January 1, 1973, to and including May 9, 1973, within the States of Nebraska and South Dakota in which any non-resident of Wounded Knee occupying Wounded Knee during all or part of such period was involved.

SUBROGATION

SEC. 5. Any right of action of any person compensated under Section 2 hereof, arising out of the disturbance at Wounded Knee, South Dakota, or any related disturbance, shall inure to the government of the United States upon payment of the compensation required under Section 2 hereof.

AUTHORIZATION

SEC. 6. There are hereby authorized to be appropriated such funds as are necessary to carry out the purposes of this Title.

S. 1847

A bill to amend the Disaster Relief Act of 1970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that Section 102 (1) of the Disaster Relief Act of 1970 is amended by inserting after ". . . or other catastrophy" the following: "(including any act or accident caused by man which results in substantial economic injury to that area)."

By Mr. STEVENSON:

S.J. Res. 111. A joint resolution to express the sense of Congress that a White House Conference on Amateur Athletics be called by the President of the United States. Referred to the Committee on Commerce.

Mr. STEVENSON. Mr. President, I am today introducing a joint resolution expressing the sense of the Congress that a White House Conference on Amateur Athletics be called by the President.

Most sports fans—and most Senators—are aware of the problems in amateur athletics. Our Olympic team has been beset with difficulties, culminating in the recent announcement by the National Collegiate Athletic Association that it was withdrawing its support from the U.S. Olympic Committee. And there has been the long and sometimes bitter feud between the NCAA and the Amateur Athletic Union, including the recent dispute over whether college players would be allowed to compete in the AAU-sponsored basketball series with the Soviet Union.

Such problems must be prevented. The United States must be permitted to field its best amateur athletes in international competition. If these problems are not prevented voluntarily, congressional intervention and Federal regulation may be inevitable. Several bills to reorganize amateur athletics under Federal control have already been introduced. The Senate Commerce Committee has scheduled 3 days of hearings on these bills next week.

The time for a voluntary settlement may be growing short—but I believe there is still time, and that Federal regulation may still be avoided.

The resolution I am introducing today will facilitate such a voluntary settlement. It calls upon the President to convene within 6 months a White House Conference on Amateur Athletics. The Conference, to be conducted under the direction of the Secretary of Commerce, would make recommendations concerning problems relating to the organization or regulation of amateur athletics in the United States, including but not limited to U.S. participation in international competition.

The Conference would bring together representatives of Government, professional and lay people who work in the field of amateur athletics, representatives of high school and college athletics, representatives of other organizations in the field of amateur athletics, and representatives of the general public.

A final report on this Conference would be submitted to the President within 90 days after the Conference is begun, and within 60 days thereafter the Secretary of Commerce would transmit to the President and the Congress his recommendations, including any legislation necessary to implement the recommendations in the report.

In addition to introducing this resolution, I shall write President Nixon asking him to convene such a Conference. The sooner such a Conference can meet, the sooner there can be a solution to the problems which confront us in amateur athletics.

I am deeply concerned about the future of amateur athletics and would hate to see the Federal Government become involved unnecessarily in this aspect of American life. I urge the President to convene such a Conference, and I urge the organizations concerned with amateur sports to reconcile their differences and work together for the advancement of amateur athletics in our country.

Mr. President, I ask unanimous consent this joint resolution be printed in the RECORD at this point.

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

S.J. RES. 111

Whereas amateur athletic competition enriches the lives of contestants and observers alike; and

Whereas athletic competition between citizens of different nations contributes substantially to the ideal of international peace and cooperation; and

Whereas amateur athletics in the nation and the nation's participation in international competition have been seriously weakened by controversies concerning the organization and regulation of amateur sports; and

Whereas the United States has a vital interest in supporting amateur athletes in their training and development in order that they will represent the United States as best they can in international competition; Now therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is authorized and requested to call a White House Conference on Amateur Athletics within six months of the date of enactment of this joint resolution in order to make recommendations concerning problems relating to organizing or regulating amateur athletics in the United States, including but not limited to United States participation in international competition. Such conference shall be planned and conducted under the direction of the Secretary of Commerce (hereinafter referred to as the "Secretary") with the cooperation and assistance of such other Federal Departments and agencies, including the assignment of personnel, as may be appropriate.

(b) For the purpose of arriving at facts and recommendations concerning the problems in amateur athletics and the utilization of skills, experience, and energies and the improvement of the conditions of amateur athletes, the conference shall bring together representatives of Federal, State, and local governments, professional and lay people who are working in the field of amateur athletics, representatives of high schools and colleges and high school and college athletics, representatives or other organizations in the field of amateur athletics, and representatives of the general public.

(c) A final report of the White House Conference on Amateur Athletics shall be submitted to the President not later than ninety days following the date on which the conference is called and the findings and recommendations included therein shall be immediately available to the public. The Secretary shall within sixty days after the submission of such final report, transmit to the President and the Congress his recommendations for administrative action and any legislation necessary to implement the recommendations in the report.

SEC. 2. In administering this joint resolution, the Secretary shall—

(a) request the cooperation and assistance of such other Federal departments and agencies as may be appropriate;

(b) prepare and make available background materials for the use of delegates to the White House Conference on Amateur Athletics as he may deem necessary;

(c) prepare and distribute interim reports of the White House Conference on Amateur Athletics as may be exigent; and

(d) engage such additional personnel as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 57 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

SEC. 3. For the purpose of this joint resolution the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

SEC. 4. (a) The Secretary is authorized and directed to establish an Advisory Committee to the White House Conference on Amateur Athletics.

(b) (1) Any member of the Advisory Committee who is otherwise employed by the Federal Government shall serve without compensation in addition to that received in his regular employment, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by him in the performance of his duties.

(2) Members of the Advisory Committee, other than those referred to in paragraph (a), shall receive compensation at rates not to exceed $75 per day, for each day they are engaged in the performance of their duties as members of the Advisory Committee including travel time and, while so engaged away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(c) Such Advisory Committee shall cease to exist ninety days after the submission of the final report required by section 1(c).

SEC. 5. There are authorized to be appropriated such funds as may be necessary to carry out the purposes of this joint resolution.

By Mr. ABOUREZK (for himself, Mr. MCGOVERN, Mr. CLARK, and Mr. HUGHES):

S.J. Res. 113. A joint resolution to direct the Interstate Commerce Commission to adopt a mortorium on railroad abandonments. Referred to the Committee on Commerce.

Mr. ABOUREZK. Mr. President, at a time when every media is shouting about the energy crisis now affecting our Nation, it does not make sense for our Government to contribute to the shortage of fuel by authorizing the abandonment of thousands of miles of railroads that service our rural areas.

It is for that reason that I am today introducing with Senators MCGOVERN, CLARK, and HUGHES, a joint resolution requiring the Interstate Commerce Commission to adopt a moratorium on railroad abandonments until such time as fuel supplies are adequate to assure the availability of alternative modes of transportation to serve our agricultural areas.

In my State alone, authoritative source indicate that 1973 might see gasoline shortages as high as 140 million gallons and diesel fuel shortages as high as 80 million gallons.

At the very time that our agricultural areas are being urged to produce as much as they possibly can in order to stabilize food prices and in order to assure export capacity to help bring our balance of payments back in line, such shortages will be nothing less than disaster.

The fact is, goods that cannot be moved by rail must be moved by truck. Frequently, adequate quantities of trucking cannot be found to serve our rural areas. Even where enough trucks are available, fuel consumption will skyrocket. I have figures that suggest it would take 2½ semitrucks to move the goods that can be hauled in one boxcar and the truck trips necessary to equal an average train of boxcars will consume five times as much fuel.

The administration has very properly made agriculture a high priority user under its voluntary guidelines for distribution of petroleum products.

While I question how effective voluntary guidelines will be, there is no question that agriculture is the central area of concern.

It is not consistent for the Interstate Commerce Commission to be in a position to undermine this priority by adding to the burdens of fuel consumers in rural areas through additional railroad abandonments.

It is for that reason that this resolution is introduced.

I hope that more of my colleagues here in the Senate will join me in sponsoring this effort and in working for its speedy passage.

I ask unanimous consent that the resolution be printed at this point in the RECORD.

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

S.J. RES. 113

Whereas American agriculture is highly dependent on railroad transportation for the movement of agricultural commodities, and

Whereas increased transportation costs would contribute to rising food prices, and

Whereas American agricultural products are a major ingredient in American export trade and thus help lower balance-of-payment deficits, and

Whereas the level of gasoline and other petroleum product supplies are inadequate to meet the needs of all areas of the Nation, and

Whereas this shortage threatens the production of needed agricultural products: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to conserve valuable petroleum resources in agricultural areas, the Interstate Commerce Commission shall upon enactment of this resolution declare a moratorium on railroad abandonments until such time as the Interstate Commerce Commission determines that fuel supplies are adequate to assure availability of alternative modes of transportation to serve agricultural areas.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 181

At the request of Mr. Moss, the Senator from Kansas (Mr. DOLE) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors to S. 181, a bill to authorize reduced fares on the airlines on a space-available basis for individuals 21 years of age or younger or 65 years of age or older.

S. 971

At the request of Mr. TAFT, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of S. 971, the Home Preservation Act of 1973.

S. 1188

At the request of Mr. BROCK, the Senator from Ohio (Mr. TAFT) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 1188 to promote the utilization of improved technology in federally assisted housing.

S. 1348

At the request of Mr. BROCK, the Senator from Arizona (Mr. GOLDWATER),

the Senator from Florida (Mr. GURNEY), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of S. 1348, the National Mobile Home Safety Standards Act ol 1973.

S. 1625

At the request of Mr. TAFT, the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Nevada (Mr. BIBLE), the Senator from Montana (Mr. MANSFIELD), the Senator from Missouri (Mr. SYMINGTON), the Senator from Illinois (Mr. STEVENSON), and the Senator from Arizona (Mr. GOLDWATER), were added as cosponsors of S. 1625, to extend until November 1, 1975 the existing exemption of the steamboat *Delta Queen* from certain vessel laws.

S. 1694

At the request of Mr. Moss, the Senator from Iowa (Mr. CLARK), and the Senator from Minnesota (Mr. MONDALE) were added as cosponsors to S. 1694, a bill to amend the Federal Trade Commission Act to regulate commerce and to assure adequate and stable supplies of petroleum products at the lowest cost to the consumer, and for other purposes.

S. 1714

At the request of Mr. McGOVERN, the Senator from Rhode Island (Mr. PASTORE), the Senator from Iowa (Mr. HUGHES), the Senator from Idaho (Mr. CHURCH), and the Senator from Montana (Mr. METCALF) were added as cosponsors of S. 1714, to establish a task force within the Veterans' Administration to advise and assist in connection with, to consult on, and to coordinate all programs pertaining to veterans of the Vietnam era.

S. 1715

At the request of Mr. McGOVERN, the Senator from Montana (Mr. METCALF) was added as a cosponsor of S. 1715, to amend title 10 of the United States Code to establish independent boards to review the discharges and dismissals of servicemen who served during the Vietnam era, and for other purposes.

S. 1716

At the request of Mr. McGOVERN, the Senator from Iowa (Mr. HUGHES), and the Senator from Montana (Mr. METCALF) were added as cosponsors of S. 1716, to amend chapter 49 of title 10, United States Code, to prohibit the inclusion of certain information on discharge certificates, and for other purposes.

S. 1717

At the request of Mr. McGOVERN, the Senator from Rhode Island (Mr. PASTORE), the Senator from Iowa (Mr. HUGHES), and the Senator from Montana (Mr. METCALF) were added as cosponsors of S. 1717, to amend chapter 34 of title 38, United States Code, to provide additional educational benefits to Vietnam era veterans.

S. 1718

At the request of Mr. McGOVERN, the Senator from Rhode Island (Mr. PASTORE), and the Senator from Montana (Mr. METCALF) were added as cosponsors of S. 1718, to amend chapter 34 of title 38, United States Code, to permit eligible veterans pursuing full-time programs of education to receive increased monthly educational allowances and have their period of entitlement reduced proportionally.

S. 1734

At the request of Mr. MANSFIELD (for Mr. MAGNUSON) the Senator from New Hampshire (Mr. COTTON) was added as a cosponsor of S. 1734, to amend certain laws affecting the Coast Guard.

S. 1773

At the request of Mr. HARRY F. BYRD, JR., the Senator from Missouri (Mr. SYMINGTON) was added as a cosponsor of S. 1773, to amend section 7305 of title 10, United States Code, relating to the sale of vessels stricken from the Naval Vessel Register.

S. 1814

At the request of Mr. JAVITS, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 1814, the Adult Education Amendments of 1973.

SENATE JOINT RESOLUTION 88

At the request of Mr. JAVITS, the Senator from New York (Mr. BUCKLEY) was added as a cosponsor of Senate Joint Resolution 88, authorizing the President to proclaim the first Sunday of June of each year as "American Youth Day."

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 89

At the request of Mr. BROCK, the Senator from Iowa (Mr. CLARK), the Senator from California (Mr. CRANSTON), the Senator from New Mexico, Mr. DOMENICI), the Senator from New York (Mr. JAVITS), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Illinois (Mr. PERCY), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of Senate Resolution 89, to create a temporary select committee to review the Committee structure in the Senate.

EXTENSION OF MORE FLEXIBLE REGULATION TO FEDERALLY INSURED FINANCIAL INSTITUTIONS—AMENDMENTS

AMENDMENT NO. 139

(Ordered to be printed and to lie on the table.)

Mr. BROCK. Mr. President, the amendment to S. 1738 which I am submitting today for myself and the Senator from Utah (Mr. BENNETT) has as its purpose the confining to the States of Massachusetts and New Hampshire a practice under which mutual savings banks in those States are offering the public an interest return on checking accounts—NOW accounts—to the competitive disadvantage of commercial banks, cooperative banks, and savings and loan associations. This amendment would prevent any further unregulated proliferation of what is in fact the payment of interest on checking accounts.

This practice could readily become nationwide through adoption by other types of depository institutions. I understand that NOW account operations in mutual savings banks are already being contemplated in New York, Pennsylvania, and Vermont. Other States and other depository institutions would soon follow. This in turn would bring about a complete revamping of our financial system without adequate consideration of its consequences.

As indicated above, NOW accounts are interest-bearing checking accounts. In fact, one Massachusetts mutual savings bank advertises them as being "5¼ percent better than a check." Congress should not condone the existence of these accounts without a thorough study of the implications.

Failure to ban "NOW" accounts infringes on a 40-year statutory prohibition on the payment of interest on checking accounts, a law going back to the Banking Act of 1933. Commercial banks are under the ban of that law with regard to checking accounts, and yet New England competitors of commercial banks are doing the very thing banks are prohibited from doing.

The Congress decided in 1933 that the payment of interest on checking accounts is not in the public interest. Thus, we should be cautious about setting aside that law. I am not saying that the law should not eventually be changed. What I am saying is that if the door to interest-bearing checking accounts is opened, it should be done in the light of careful assessment of all the implications of such a change, and not via the backdoor of so-called NOW accounts.

The ramifications of paying interest on checking accounts reach into nearly all aspects of the financial system. For example, it affects monetary policy, the competitive equality among different types of financial institutions, the stability of the financial system, depositor protection, and the flow of funds to housing and many other important areas of the economy.

Contrary to popular opinion, NOW accounts are certainly not in the interest of all consumers. It may be to some consumers' benefit to get interest on checking accounts—I would like that myself—but it would force up borrowing costs to most other consumers who have to depend on credit. It is one sided to say that some individuals as depositors are benefited by a return on checking accounts or a higher return on savings deposits when that return is produced by a corresponding increase in loan rates to others. The persons who will gain most from deposit interest are the more affluent, whose savings exceed their mortgage and other debts, or who have no debt. But those needy persons who are struggling to own a home, or to pay a landlord's mortgage through rent, are the one who will lose, and they are consumers too. I think we should look at both sides of this question. You cannot raise the deposit costs of financial institutions without raising borrowing costs or causing other maladjustments.

Then, too, I think we sometimes forget that mortgage loans generally require much greater stability of deposits than that provided by checking accounts. Such money should not be put into long term mortgages. If savings accounts take on the characteristics of checking ac-

counts, the financial institutions offering those accounts will have to put the funds into liquid and high yielding short-term investments in order to meet demand withdrawals and to defray the higher costs of operation. Accordingly, we can look for a decline in thrift institution support of the housing markets, and this is certainly not in the public interest.

NOW accounts create an intolerable competitive situation. This phraseology was used by Governor Mitchell when he testified on March 21 before our committee on this legislation. At the present time, mutual savings banks in Massachusetts have no legal reserve requirements against deposits and in New Hampshire the reserve requirements on commercial bank check accounts range from 8 to 17½ percent. It is obvious that NOW account operations provide a very unfair competitive edge for mutual savings banks over commercial banks; and by the same token, in terms of liquid assets, they do not offer as much depositor protection as commercial bank checking accounts do.

Moreover, at 5¼ percent interest, mutual savings banks in Massachusetts can pay three-fourths of 1 percent more to attract deposits than commercial banks can pay on regular passbook savings; and, of course, on checking accounts commercial banks are forbidden to pay any interest at all. The competitive inequity is obvious.

I ask unanimous consent that my amendment be printed in the RECORD at this point.

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

AMENDMENTS NO. 139

On page 1, line 6, strike out "(a)".

On page 2, strike out lines 1 through 9, and insert in lieu thereof the following:

PROHIBITION ON CERTAIN ACTIVITIES BY DEPOSITORY INSTITUTIONS

SEC. 2. (a) No depository institution shall allow the owner of a deposit or account on which interest or dividends are paid to make withdrawals by means of negotiable or nonnegotiable orders or otherwise in favor of any person other than the depositor or his legal representative, except that such withdrawals may be made prior to June 1, 1974 in the States of Massachusetts and New Hampshire in accordance with contractual arrangements entered into prior to such date.

(b) For purposes of this section, the term "depository institution" means—

(1) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

(2) any State bank as defined in section 3 of the Federal Deposit Insurance Act;

(3) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

(4) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

(5) any insured institution as defined in section 401 of the National Housing Act;

(6) any building and loan association or savings and loan association organized and operated according to the laws of the State in which it is chartered or organized; and, for purposes of this paragraph, the term "State" means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands;

(7) any Federal credit union as defined in section 101 of the Federal Credit Union Act; and

(8) any State credit union as defined in section 101 of the Federal Credit Union Act.

(c) Any depository institution which violates this section shall be fined $1,000 for each violation.

On page 2, line 12, strike out "Sec. 2." and insert "Sec. 3.".

On page 3, line 7, strike out "Sec. 3." and insert "Sec. 4.".

On page 6, line 10, strike out "Sec. 4." and insert "Sec. 5.".

On page 13, line 16, strike out "Sec. 5." and insert "Sec. 6.".

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 135 TO S. 1672

At the request of Mr. STEVENSON, the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Illinois (Mr. PERCY), the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from New York (Mr. JAVITS), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Ohio (Mr. TAFT), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Florida (Mr. GURNEY), the Senator from California (Mr. TUNNEY), and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of Amendment No. 135, to the bill (S. 1672) to amend the Small Business Act.

NOTICE OF HEARINGS ON BILLS TO CODIFY, REVISE, AND REFORM THE FEDERAL CRIMINAL LAWS

Mr. McCLELLAN. Mr. President, I wish to announce for the information of the Members and the public that the Subcommittee on Criminal Laws and Procedures will hold open hearings on May 23, 1973, on bills to codify, revise, and reform the Federal criminal laws. The hearings will commence at 10 a.m. in room 2228, Dirksen Senate Office Building. The following witnesses have been scheduled to appear on this day: Hon. Marvin E. Frankel, judge, U.S. District Court, New York, on the appellate review of sentencing; a representative of the National Association of Insurance Commissioners on insurance bankruptcy; and a representative of the section on taxation of the American Bar Association on tax laws.

Additional information on the hearings is available from the subcommittee in room 2204, Dirksen Senate Office Building, telephone, area code 202 225-3281.

ANNOUNCEMENT OF RAILROAD RETIREMENT HEARINGS

Mr. HATHAWAY. Mr. President, the Railroad Retirement Subcommittee of the Senate Committee on Labor and Public Welfare will conduct hearings on Wednesday, May 30 and Thursday, May 31, on H.R. 7200 and other legislation concerning the railroad retirement system now being prepared.

The hearings will be held in room 4232, the Senate Labor and Public Welfare Committee hearing room beginning at 9:30 a.m.

The purpose of these hearings is to examine the present retirement system. The committee has invited representatives of the Association of American Railroads, the United Transportation Union, Railroad Retirement Board and other interested parties to testify at these hearings. Any person wishing additional information should contact Mr. Angus S. King, Jr., counsel of the subcommittee at 225–2523.

ADDITIONAL STATEMENTS

NO GREATER LOVE

Mr. CRANSTON. Mr. President, a story appeared in the Los Angeles Times last Tuesday which I would like to call to the attention of every Member of the Congress.

It is about one woman's determination, courage, and humanitarianism about a problem all of us should be concerned with. She is a resident of Washington, D.C., but the problem she's working on is national in scope.

For Miss Carmella LaSpada has dedicated herself to helping the children of men who were killed in action or are missing in action in Vietnam.

These are the forgotten children in America. But some of them—thanks to Miss LaSpada and her organization "No Greater Love"—are being remembered.

I have met and talked with Miss LaSpada and I am familiar with how she is trying to help these children—children who must grow up without a father and with the cruel memory of a father lost in a war which no one wanted.

No Greater Love needs the support of millions of Americans. The organization should be established in all of our States. But Miss LaSpada will need help if that is to be accomplished.

I urge my fellow Senators to read this article about a very fine woman and a great cause. And 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:

REMEMBERING THE FATHERLESS IN WAR'S WAKE

(By Ursula Vils)

Carmella LaSpada flipped the pages of a red loose-leaf binder and paused at a letter obviously scrawled by a child, in this case a boy whose father is missing in action in Vietnam.

The letter is dated Dec. 25 and addressed to the Chicago Bears football team:

"Thank you for my picture. My daddy used to watch your team on TV and I did to. I was waiting for my daddy to come home from Vietnam. But I still watch your games.

Love KRIS."

The poignant note is one of numerous responses to a program designed to let children of American servicemen missing or killed in action in Indochina know there are those who care about them.

A STAGGERING CHALLENGE

The program is called No Greater Love and its challenge is staggering: There are more than 75,000 children who have lost their fathers in American's longest war.

No Greater Love grew out a Washington-based program Carmella LaSpada launched in May, 1971, with a number of athletes concerned about the plight of American pris-

oners of war and those missing in action in Southeast Asia.

Miss LaSpada, a petite, persuasive, fast-talking young woman, explained No Greater Love's evolution on a visit to Los Angeles to marshal aid for the program in Southern California.

"The athletes, being nonpolitical, felt they might have a chance to discuss the issue with Hanoi on the strictly human level, with no political overtones."

Four famed athletes—football's Johnny Unitas, baseball's Brooks Robinson and Ted Williams and swimmer Don Schollander—wrote to North Vietnam Prime Minister Pham Van Dong asking permission to visit him to discuss the POW/MIA matter.

No reply was received.

But POW/MIA children, alerted through the National League of Families of Prisoners and Missing in Southeast Asia, began writing their athlete heroes.

"We found there were 2,500 such children," said Miss LaSpada, whose six-month leave from a non-political civil service job in the President's office (she has served several Administrations) has escalated to nearly two years—with no immediate prospect of returning.

"We decided to try to do something for the children. In the summer of '71 we sent out questionnaires about their interests so we could personalize our efforts. If Kris, for instance, liked the Chicago Bears, we wanted to see to it he got personally autographed photos or a football from that team.

VOLUNTEER STUDENT HELP

"We got the forms back in November '71. With the help of student volunteers from Georgetown University, we got out a couple thousand gifts in three weeks—in time for Christmas."

On the success of the Christmas campaign—and the response from the children—Carmella LaSpada vowed to continue the program and to expand it to include special occasions, such as birthdays, religious milestones and children's medical crises.

She lined up an impressive roster of athletes, professional and college sports teams and entertainers who would send the children personalized remembrances—autographed photos, a note, a phone call on a special occasion such as a birthday or the even of surgery.

And she worked, and is still bending every effort, toward lining up financial support. Although the athletes' and entertainers' time is donated and many of the mementos are provided by the sports teams, funds are needed for mailing, an office and to expand the program, she said.

"We sent 4,000 gifts last Christmas," Miss LaSpada said, "working out of my apartment. It looked like a warehouse." She came to Southern California primarily to attend a Steel Workers Union banquet last Saturday, of which the proceeds are to go to No Greater Love. She also is completing plans for a party Saturday for MIA and KIA (killed in action) children at which a Southland advisory committee will be announced. It will be at Mrs. Donald Rosenfeld's home in Beverly Hills.

She is anxious to expand into California because of the large number of MIA and KIA children living on or near military installations here, such as the El Toro and San Diego areas.

LEST THEY FORGET

Miss LaSpada also sees the need to remind the public about the children who remain fatherless despite the cessation of American involvement in Indochina.

"A lot of people want to forget Vietnam," she said. "But children are the innocent victims of any war.

"Their mothers don't know the effect of their having lost their fathers yet. They can tell a child to be proud of his dad, but it means a lot more if an athlete he admires says, 'You must really be proud to have had such a father.'"

So, breathless with enthusiasm, talking like a machine-gun, Carmella LsSpada plunges into the future.

"We're planning a big push for Father's Day in June," she said, "and I'm hoping to line up a series of public service spots for radio and television through the Ad Council.

FLAGS FOR HEROES

"For Flag Day, we're trying for Operation Hero Flag, a project to send each a Flag flown over the Capitol on the father's birthday.

"And I keep looking for my angel . . . that one person . . . someone who'll give us enough for the mass mailing we need."

Miss LaSpada serves No Greater Love as vice president (Johnny Unitas is president), treasurer and national coordinator. The group is nonprofit and tax exempt. Its mailing address is PO Box 968, Hoya Station, Washington, D.C. 20007.

And what does Carmella LaSpada live on? "Well, I've used up my savings, but my brother, a Washington attorney, helps me, and every time I go home to Philadelphia I come back with packages of food."

She turned more serious, monumentally uninterested in her standard of living.

"I'm really fortunate," she said. "My father is wonderful, and growing up without him . . . well . . . I guess that's why I'm doing this for the MIA/KIA children. It's like the least I can do.

"The only way this program will die is if I die."

She riffled the pages of the red binder again and stopped at another letter from a son of a man missing in Indochina. This one was addressed to the Cincinnati Bengals football team:

DEAR BENGALS: Thank you very much for the stocking filled with all that neat stuff. I'll put them all around my room.

I hope you have real good luck for all the seasons to come.

Sincerely,

MARK.

P.S. My mother didn't make me write this.

SENATOR HELMS PROTESTS UNREASONABLE OSHA RULES FOR GROWERS OF TOBACCO

Mr. HELMS. Mr. President, on May 1 of this year, the Department of Labor under the Occupational Safety and Health Act proposed certain so-called emergency temporary standards for exposure to organophosphorous pesticides which were published in the Federal Register. These standards would establish minimum periods during which farmworkers or other agricultural employees would be prohibited from reentering the fields treated with the listed pesticides.

Among the crops controlled under this proposed regulation is tobacco. I strongly object to the publication of these emergency regulations and I have voiced my objections in a letter to Mr. John H. Stender, Assistant Secretary of Labor for Occupational Safety and Health, which I am inserting in the RECORD.

These regulations are believed by many to be the result of a sellout by the Department of Labor to the pressure and intimidation brought to bear by Caesar Chavez and the OEO-funded migrant legal action program. I have to date seen no evidence justifying these "emergency" regulations. The regulations which have been proposed stipulated periods of from 2 to 7 days during which farmworkers cannot reenter fields which have been sprayed with the various pesticides covered in the regulations. This will impose an obviously serious hardship on the farmer and on his ability to cultivate his crop. Chemical pesticides applied according to instructions have resulted in no danger insofar as I know to the health of farm employees engaged in harvesting tobacco.

Tobacco is a perishable crop. The timing involved in the cultivation and harvesting depends in large part upon weather conditions during the season. In light of this, the minimum time periods during which OSHA insists that farmworkers may not reenter fields is unreasonable, unfair, and in complete disregard for the rights of the farmer to earn a living without undue governmental interference.

If these regulations become effective, the farmworker entering a field during the prescribed period for any reason would be required to wear a gas mask or respirator as well as coveralls or other body coverings including gloves, hat, and shoe coverings. The image of a tobacco farmer working his fields covered from head to toe and wearing a gas mask in mid-July points out just how ridiculous and unreasonable these occupational safety and health regulations can be.

In addition, these regulations would apply to any employee, as determined by the Occupational Safety and Health Administration, who works in a tobacco farmer's fields. As an example, this could mean that if a man owns a small farm on which he grows tobacco, and also has a tenant living on the farm who helps the farmer in cultivating and harvesting the tobacco, that tenant would not be allowed into the fields for from 2 to 7 days, depending on which chemicals were being sprayed at different periods during the growing season. It also means that, if the tenant does have to go into the fields at some point while the reentry prohibition is in effect, he would have to wear the protective clothing or gas masks that these regulations require. Under the regulations, the farmer would also have to set up toilet facilities in the field and provide clean water for washing in the field; he would be required to supply coveralls and have them cleaned after each day for his tenant. The same situation would apply if a man's brother or any other relative outside of his immediate household helps him with his tobacco farming and is given pay or other benefits for helping with the tobacco crop.

These regulations have been demanded by unions purporting to represent migrant workers employed principally in fruit harvesting. These regulations have no reasonable connection to tobacco growing and should not apply to the tobacco farmer.

I urge other Members of the Senate to join me in insisting that the Department of Labor reconsider and withdraw these proposed "emergency" regulations.

I would hope that every citizen and every farmer who feel that these regulations are unjust, and an example of Washington's bureaucracy running wild, will write to the Department of Labor,

Occupational Safety and Health Administration, and voice their objection to these proposed regulations.

Mr. President, I ask unanimous consent that my letter to Mr. Stender to which I have previously referred be printed in the RECORD.

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

MAY 9, 1973.

Mr. JOHN H. STENDER,
Assistant Secretary, Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C.

DEAR MR. STENDER: I am writing to you to object in the strongest possible terms to the proposed emergency temporary standards for exposure to organophosphorus pesticides published in the Federal Register of May 1, 1973.

In today's economy fraught with rising consumer prices for agricultural products, these proposed emergency occupational safety and health regulations will definitely result in increased costs of production with the consequent increased costs to the consumer. In some cases, it is easily foreseeable that these regulations will force farmers and orchardmen out of their livelihood.

There is a definite point at which the harassment and bureaucracy attendant to the administration of the Occupational Safety and Health Act become so burdensome that the small producer is forced to quit or sell out to the larger economic unit which can afford the overhead and inefficiencies which result from government regulation.

The Occupational Safety and Health Act, and more importantly, the administrative excesses in its application, have contributed significantly to the difficult times which small businessmen and small farmers are experiencing. When the small businessmen and small farmers are put out of business, the whole Nation suffers because they are the competitive edge that keeps our free market economy operating.

The proposed emergency regulations and the justifications for them which were outlined in the Federal Register give no consideration to the practical ability of farmers and orchardmen to implement these regulations and still be able to cultivate their fruits and crops.

I am not satisfied that any reasonable case has been made by the Occupational Safety and Health Administration to justify the imposition of emergency regulations.

I would ask you at this time to suspend the effective date which has been published for the implementation of these regulations until such time as a more thorough evaluation can be made of the effects of the various pesticides on the safety of farm workers and the rationality of such regulations in terms of the ability of agricultural producers to comply with such standards.

Sincerely,

—— ——.

THE CONSTITUTION, CONGRESS, AND SENATOR ERVIN

Mr. CHURCH. Mr. President, for many years now, our distinguished friend and colleague from North Carolina (Mr. ERVIN) has urged the legislative branch to live up to its rightful constitutional role in our governmental system of shared and coordinated powers. The year 1973 is the year that SAM ERVIN is showing us the way. He has said, "I think the Senate is determined to recover some of its powers." I think he is right; I think the Senator is the symbolic leader in this major move by this body. I respectfully tip my hat and express my appreciation to him for his hard work as a legislator, for his commitment to restoring the balance of power between the branches of government and, above all, for his abiding faith in the Constitution of the United States.

I ask unanimous consent that an article by James M. Naughton entitled "Constitutional Ervin" that appeared in the New York Times Magazine on May 13 be printed in the RECORD.

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

CONSTITUTIONAL ERVIN

(By James M. Naughton)

WASHINGTON.—Tourists peered, like innocent cherubim placed there for effect, over the edge of the circular second-floor railing and down on the human fresco in the well of the Senate rotunda of the United States Capitol. Portable floodlights. Three television cameras. A dozen microphones. A rackety pack of the nation's premier investigative reporters. And, at the center, a broad-shouldered, white-haired, 76-year-old oracle who alternately listened to questions with an amused smile creasing his McIntosh apple face or gargled answers in a cornmeal-mush dialect of the Appalachian South.

Once, maybe twice, the word "Watergate" seemed to rise rancidly from the fresco, rebound off the nearby stone wall—where a plaque noted that Samuel F. B. Morse had, 129 years earlier, telegraphed "What hath God wrought!" to Baltimore—and lodge in the ears of curious bystanders. "What's going on?" people asked each other. "Who is that?" a lady inquired of a Capitol guard.

"That's Senator Ervin of the Watergate committee," the guard replied.

"Oh, yes," said the lady, excitedly, repeating the bulletin to an elderly companion. "That's Senator Erwin."

They may not know how to pronounce his name, these visitors from Nebraska or Texas or New Hampshire or Georgia who outnumber the springtime crocuses in the capital. But they know who Sam J. Ervin Jr. is.

He is the investigator who was not indulging in hyperbole when he threatened to send the Senate Sergeant-at-Arms to arrest any White House aide refusing to testify about political espionage and sabotage before the Select Committee on Presidential Campaign Activities. He is the constitutional lawyer who dismissed President Nixon's interpretation of executive privilege as so much "executive poppycock." He is the legislator who drafted a measure to demand that the White House follow Congressional instructions on how to spend Federal money. He is the storyteller who seems to have committed to memory the Bible, the Constitution, the words of Shakespeare, the rulings of the Supreme Court, the advice of Thomas Hobbes, James Madison, W. C. Fields and, of course, Tarheel philosopher Lum Garrison. He is the Democratic senior Senator from North Carolina and, after 18 years in the Senate and five decades in public life, he has amassed enough influence, authority and seniority to chair—besides the Watergate inquiry—the Government Operations Committee and three Judiciary subcommittees, enabling him to preside over more than 60 Congressional employes with an annual payroll exceeding $1-million.

And he is the closest thing the United States Congress has to a symbolic leader in its bitter dispute with President Nixon over constitutional powers.

Congress sorely needs a symbol. Pierre L'Enfant designed the District of Columbia to resemble a big wheel, with the Capitol at its hub, but the power and visibility have shifted to the White House. Congress must struggle ritually to overcome political, philosophical and sectional differences among 435 Representatives and 100 Senators on the most mundane matters. The President can act with solitary dispatch. Members of Congress may get 30 seconds of time on a newscast for each ton of paper they distribute with their press statements. The President can monopolize 30 minutes of prime time on every television network, simultaneously, merely by suggesting he has something on his mind.

Congress had plenty on its mind when it convened for the 93d time in January. Since its members had gone off last year to get elected or re-elected, the President had dismissed Watergate, through his spokesmen, as a third-rate burglary attempt unconnected to the White House. He had declared peace to be at hand in Indochina just before the election and then unleashed aerial devastation on Hanoi just before Christmas. He had impounded—withheld, that is—more than $12-billion allocated by Congress for a variety of spending programs, in effect unilaterally resetting the nation's spending priorities. The Senate and House of Representatives might have been able to live with all that, but Mr. Nixon had not even troubled to go through the motions of advising their leaders. At least, grumbled some of them, Lyndon Johnson had flown committee chairmen down to the Pedernales to tell them when they were about to be disregarded. As Ralph Nader put it, the President's great contribution to the Congress was that he had offended its sensibilities. Almost by accident—Ervin, a Presbyterian elder, might say by predestination—the senior Senator from North Carolina has become the symbol of the wounded institution trying to recover its strength and its self-respect. After two decades as hardly more than a caricature of the Southern wing, Sam Ervin at the twilight of his career has become the graven image of Congress. Nothing that he is doing or saying today is much different from what he did or said as a freshman Senator in 1954, but suddenly people are watching and listening with the avidity of voyeurs. His long love affair with the original version of the Constitution has propelled Ervin into the role of architect of Congressional efforts to regain constitutional prerogatives. His reputation for fairness and his experience as a justice of the North Carolina Supreme Court have cast him in a leading role in the Watergate morality play. His native wit and accumulated hill-country charm have captivated the media, helped turn Ervin into a campus folk figure and caused all of Washington to listen for his antiphons every time the White House sings a new tune. In the next few days, as the Watergate committee begins its public exploration of a scandal that has raised doubts about the integrity of the 1972 Presidential election and of the national political system itself, it will be Sam Ervin, manipulating the gavel and guiding the inquiry, who will be the dominant political figure in Washington.

The snow tires sang and windshield wipers clacked as the Chrysler New Yorker bearing United States Senator license plates swished through Cornelius and turned right onto North Carolina 73, tunneled into the wet dark night at 60 m.p.h. and headed home to Morganton.

"Oh, ah can see fahn," said Sam Ervin as he squinted toward the ends of the headlamp beams. "Ah just hope it isn't too bad through Hickory."

"Do y'all have your seat belts on?" inquired Miz Margaret, scrunched hospitably into a corner of the rear seat alongside the clothes hamper, hatbox and overnight case so that her husband and their guest could talk up front. "Is the air-conditioner on?"

The previous day, a radio newscaster had told Sam Ervin that Richard Nixon had caved in on executive privilege. "Major develop-

ments" in the Watergate case had suddenly come to his attention, the President had announced. After weeks of insisting on the right of his White House aides to decline to appear before the Ervin committee, after Ervin had threatened their arrest if necessary, after the Attorney General had claimed executive privilege cloaked all 2.5-million Government employes in Presidential secrecy, after Ervin had rejected an offer of written answers or informal close-door White House testimony, the President had reversed himself and ordered his aides to cooperate with the Senate investigation.

"Ah got to a motel and there were two newsmen there," Mr. Ervin recalled as the Chrysler neared Lowesville." "Ah must enunciate very poorly, 'cause ah never say anything to belittle people, and ah told them ah was glad the President's aides were gonna come down and testifah, and they misunderstood mah Southern accent. Ah was saying a-i-d-e-s, ah thought plainly. Gol darn if they didn't both write me up saying ah was glad the eggs were gonna come down and testifah. . . ."

"Can you imagine?" Miz Margaret intervened.

". . . which is contrary to mah whole history. It was just in the two North Carolina papers, so ah hope it'll stay there. Ah said before, ah'm charged with bein' judge and jury and ah don't like to say anything—ah don't say anything—that's attacks on people or anything to indicate ah can't base mah decisions solely on what evidence we bring in. Now if that's been some of you Nawtherners, ah could understand it. You couldn't understand the dialect. But how these Southerners couldn't understand the difference between aides and eggs. . . ."

Senator Barry Goldwater, the Arizona Republican, the conscience of the conservatives, the 1964 Republican nominee for President, came out the other day in favor of an independent, impartial investigation of the Watergate conspiracy by a prominent individual outside both the Administration and the Congress.

"But I have complete faith in Ervin," he hastily noted. "I'd trust him with my wife's back teeth."

That attitude is more prevalent than bunkum in the United States Senate. It explains why Ervin was pressganged into the chairmanship of the Watergate probe and why the White House has the jitters about the Senate investigation.

Ervin was snowbound in Morgantown last January when Mike Mansfield, the Senate Democratic leader, persuaded the Democratic Policy Committee to initiate a full-scale inquisition into every allegation of wrongdoing by the Republican Presidential campaign organization in 1972—the bugging of the Democrats' Watergate offices, the sabotage of Democratic candidacies, the laundering of hundred-dollar bills to support these efforts, White House attempts to cover it all up. Mansfield's first rule was that the committee's Democrats could not be past or potential Presidential candidates, a stipulation that seemed to rule out nearly every Democrat in the Senate. Mansfield also wanted as chairman an experienced lawyer, preferably one with investigative or judicial experience.

The logical, perhaps the lone, prospect was Samuel James Ervin Jr. He had supported the President on Vietnam and voted to sustain some Nixon vetoes. He was not, clearly, a partisan Democrat. He had practiced law since 1922, served at every level of the criminal and appellate court system in North Carolina, sat on the Senate committees that censured Joseph McCarthy in 1954 and investigated labor racketeering from 1957 to 1960. Above all, as Mansfield put it, he "was the only man we could have picked on either side of the aisle who'd have the respect of the Senate as a whole. We could've got the fist-pounding, free-wheeling boys out there. I don't know what that would have accomplished. We're not looking for a TV melodrama. We're looking for a good, fair, impartial investigation."

But Sam Ervin wasn't looking for its chairmanship. He was enmeshed in constitutional scraps over the impoundment of appropriated funds by the President and secrecy in the executive branch. And, despite the fact that he will be 78 years old when his Senate term expires in 1974, Ervin has not yet decided to retire. He didn't relish taking on another, potentially political clash with a President who had just produced a landslide victory that in North Carolina also swept out of the Senate Ervin's friend, B. Everett Jordan and installed as the junior Senator from North Carolina a conservative Republican, Jesse Helms.

It snowed in North Carolina. Ervin could not get to Washington for the January meeting of the Democratic caucus. Mansfield hustled the 14-member Policy Committee and then the 57-member caucus, minus Ervin, to unanimously endorse Ervin for the Watergate chairmanship.

"Mike didn't leave me much choice. Ah sorta felt like, under the circumstances, it was mah duty to go ahead and do the best ah could," Ervin said. He slowed the big Chrysler at a dark bend in North Carolina 16, outside Triangle.

"Careful," cautioned Miz Margaret.

"Mah good wife says if ah see anythin' controversial comin' from far off, ah run as fast as ah can to jump right in the middle of it. Which is, ah think, an error on her part. But it does seem like ah get a lot of assignments like that."

His willingness to accept them is conditioned in part by the offensive attitude of the White House, the arrogance with which it has refused to give explanations for its war policies or peace hopes, to provide witnesses when Congressional committees request them, to acknowledge the constitutional power of the purse that Congress has been impotent to retain.

"Ah think after the election Nixon got such a tremendous vote, why he thought he had a great mandate from the people. In mah judgment, he overlooked the fact it was not because they loved Ceasar more but Brutus less."

The stop sign loomed up suddenly. The Senator tromped hard on the brake. The Chrysler slid to a halt with its nose poking into the crossroad. Miz Margaret kept her own counsel.

"Ah think the Senate is determined to recover some of the powers. The thing that concerns me is whether the House has the will to do so. It's sorta hard work to sit down and study, for example, this impoundment bill, which the Senate passed as an amendment. The evolution of that bill required a whole lot of work 'cause it was a very weak bill when it started out. It had no means of enforcement. And then we conducted hearings and witnesses came along. Many of them made valuable suggestions and it's a pretty good bill now, ah think. The Administration doesn't want the bill. It might be vetoed, and then it comes to a question of whether or not it can be passed over a veto—in the first place, how much the House is gonna be interested, 'cause they've got a bill over there that's almost a verbatim copy of a bill ah introduced two years ago, that ah came to the conclusion was worthless. They've got a bill over there that's not any good at all. Ah can say that 'cause about 95 per cent of it's what ah wrote out of the Senate version."

Congress already has enough power to force the White House to yield documents and supply witnesses. The question is whether Congress has the nerve to use it, Professor Raoul Berger, a senior fellow at Harvard Law School, admonished at a Senate hearing last month.

Under old English law, which the framers of the United States Constitution had in mind as precedent when they created the system of checks and balances, Professor Berger said, anyone refusing a subpoena from Parliament would be tossed into the Tower of London.

"Hear that, Senator Ervin?" chortled Senator Muskie.

"If I had six Senator Ervins, old as I am, I'd storm the White House," the Harvard professor said.

It is a suggestion not taken lightly some places. Like the White House.

"I worry about him," confessed one Presidential aide. "Ervin's fair. He commands a lot of respect. He's got a following. He has earthy charm. He's going to give us trouble."

Ervin has been trying to do just that—to Supreme Court Justices as well as to Presidents—during his entire Senate career.

In 1954, departing Senator Guy Gillette of Iowa urged freshman Senator Sam Ervin to assume the lead in trying to curtail the encroachment by the executive and judicial branches on the legislative power of Congress. The courts were writing law and the Administration was disregarding law, they agreed. Ervin mentioned the matter to Senator Mansfield and to Senator Everett M. Dirksen, the influential Illinois Republican, and the two leaders introduced a resolution that led to creation of the Senate Judiciary Subcommittee on Separation of Powers. Ervin has been its only chairman.

From that forum—and later from the Subcommittee on Constitutional Rights, the Subcommittee on Revision and Codification of Law, and the full Committee on Government Operations, all of which Ervin also chairs—he has conducted seemingly contradictory crusades. He led Southern filibusters against civil rights laws but initiated civil liberties measures. He voted against Federal housing subsidies but challenged President Nixon's right to withhold the housing funds. He consistently supported the American military involvement in Indochina but fought bitterly against military surveillance of anti-war dissidents. He opposed court rulings that freed criminal suspects on technical procedural grounds but fought with equal fervor against adoption of the "preventive detention" law that permits the jailing of defendants before trial on the grounds they might commit another offense.

The consistency that Ervin sees throughout such positions is that he bases them all on his reading of the United States Constitution.

He is a fundamentalist, a strict constructionist, a constitutional conservative who abhors increases of power, however minimal, in the central government as threats to individual liberty. He grew up immersed in, and consequently still reflects, the old-fashioned Southern fidelity to the Constitution in its original form.

Even when Ervin served as the legal adviser to the civil rights filibusters he sought, not always with success, to limit the debate to questions of constitutionality rather than of prejudice. He cautioned against considering Governors Ross Barnett of Mississippi and George Wallace of Alabama to be embodiments of the Southern view. Once he summed up his own civil rights position this way:

"My stand is unequivocal. No man should be denied the right to vote on account of race; no man should be denied the right to seek and hold any job, the right to live by the sweat of his own brow; no man should be denied the right to have a fair and impartial trial by a jury of his peers; no man should be denied the right to a decent education or to enjoy any other basic human right. . . .

"But we will not fool history as we fool ourselves when we steal freedom from one

man to confer it on another. When freedom for one citizen is diminished it is in the end diminished for all. Nor can we preserve liberty by making one branch of Government its protector, for, though defense of liberty be the purpose, the perversion of it will be the effect. The whole fabric of our Constitution—the federal system and the separation of powers doctrine—is designed to protect us against such centralization; but even the language and lessons of the Constitution cannot stop a people who are hell-bent on twisting the document to the will of a temporary majority."

Congressional doves have argued that the United States slipped into Vietnam with little regard for the constitutional requirement of a declaration of war. But Ervin has supported—until, significantly, the last few weeks—the American involvement in Southeast Asian combat. He considered the Tonkin Gulf resolution to be "tantamount to a declaration of war" and voted against its repeal. When it was repealed, he continued to support the Nixon Administration on the grounds that the President had, as Commander in Chief, the authority to protect American troops being withdrawn from the combat zone.

But now that the troops have been withdrawn, Ervin is seriously considering a shift that could have important ramifications in a Senate whose conservatives often follow his lead. "I am frank to state," he told a questioner who wondered the other day about the President's authority to bomb in Cambodia, "that I am somewhat at a loss to understand what authority we have."

Ervin's stewardship of the Senate's effort to enact a law shielding journalists from interrogation by legal officials or subpoena by grand juries is grounded in his interpretation of the First Amendment. He would except newsmen from giving testimony on anything other than first-hand observation of a crime and would stipulate in the legislation he has prepared, that sources of all other information given to journalists are to remain private and that any unpublished data is immune from examination.

The most difficult of Ervin's positions to rationalize, however, is his adamant opposition to the Equal Rights Amendment to the Constitution, which would grant legal parity to women. Ervin's attitude seems less judicial than biological when he explains that "you have got to admit that there are physiological differences between men and women. I stick to my guns that I do not want to see women drafted in this country to serve in the armed forces just as men do."

When Ervin is introduced to an audience in his home state, inevitably he is described as a "champion of individual liberty," which causes him to break out in blushes and grins.

"Our greatest possession," he has told the students and faculty of Davidson College in North Carolina, "is not the vast domain: It's not our beautiful mountains, or our fertile prairies, or our magnificent coastline. It's not our great productive capacity. It is not the might of our Army or Navy. These things are of great importance. But in my judgment the greatest and most precious possession of the American people is the Constitution."

That is why, he said, he initiated legislation this year to compel the President to follow Congressional instructions on spending. "This is not a confrontation that's primarily concerned with money," insisted Ervin.

Mr. Nixon has contended that he was forced to cut back on some spending programs and eliminate others—despite Congressional appropriations—in order to avoid a deficit that would exceed the national debt ceiling or the tax increase that an "irresponsible" Congress would force with profligate spending. But Ervin, who has voted against every increase in the national debt and many of the Democratic-sponsored social spending proposals of the last decade, insists that the President simply does not have the constitutional right to refuse to spend as Congress directs.

Even the Nixon public relations apparatus, which came up with "battle of the budget" information kits advising Administration officials on tactics for attacking Congressional spending habits, is hardpressed to paint Ervin as a fiscal libertine.

Ervin himself complains that both Presidents and Congresses have been too loose with the public's money, as in the foreign aid program, for example. "If an individual were to borrow money to give it away," he notes wryly, "his friends and family would institute an inquisition in lunacy against him and have a guardian appointed on the grounds that he's not capable of managing his own affairs. But in the last 40 years, if a politician advocated the country borrowing money to give it away, he would likely be elected President or Senator or Congressman or wind up as Secretary of State." His most telling punch line, however, may be his assertion that "the most reckless spending man that's ever been in the White House since I've been in Congress is the present occupant. The national debt has increased $110-billion since he took his oath of office a little over four years ago."

Small wonder that even before Ervin got under way with the Watergate investigation, the White House was fretful over the Senator's potential to shape the public perception of the clash between the President and the Congress. A political associate of Ervin's in Charlotte, N.C., a contributor who had also supported President Nixon's candidacy for reelection, tells of receiving "a call from Washington" to inquire if there wasn't some way that he and "other Nixon friends" could persuade Ervin to back off a bit. Instead, the Charlotte man passed the information on to Ervin.

"Mah father was a lawyer, too, and when ah first started practicin' with him, we used to go to some of the mountain towns, and most of them were hard to get into before the roads were very good. And you got over there, you had to stay all week, 'cause it was just too much trouble getting in and out. So at night the judge and the lawyers would sit around and tell stowries. And so ah just heard a lot of these old stowries then, and mah father was pretty much of a stowryteller."

The Chrysler swept easily along U.S. 64 and 70. Whoosh. Clumps of trees. Whoosh. A darkened clapboard house. Whoosh. Whoosh. Two mobile homes, no longer mobile, their occupants camped permanently along the highway.

"Mah wife, of course, says ah haven't heard a new stowry in ages, and she's gettin' tired of laughin' at these old ones."

It is an exaggeration. Most of the stories are old, but what about the Senator's response to the question at the news conference a few hours earlier in Davidson College's elegant old Philanthropic Society Hall? (And was it really coincidental that Ervin had sat a few feet away from a Bible opened to the Book of Solomon?) The question was whether Ervin would take Martha Mitchell up on her publicly expressed wish to testify on behalf of the former Attorney General at the Watergate hearings.

"Ah'd have to meditate a long time on a voluntary witness," he'd answered. "The only other voluntary witness ah've had was a man who calls me several times a week to tell me the Lord has communicated with him on Watergate." His face had become red with suppressed delight. "Ah told him ah'd be awful glad to have the Lord come and testify, but if ah let him come and tell us what the Lord had told him about Watergate, people might criticize us on the grounds the testimony is hearsay." He had let the delight burst forth in glee. It had been comcunicable.

"Ah have always found if you got a good stowry that sort of fits things, a good stowry is worth an hour of argument."

There are many styles in the United States Senate, but few of its members are stylish. Ed Muskie glowers and pounds his fist in righteous indignation nearly every time he confronts an Administration witness who disagrees with him. Hugh Scott, the Republican leader, prefers such rhetorical curlicues as this comment a few days ago on the Watergate conspirators: "This rotten vine of Watergate has produced poisoned fruit, and all who have been nourished by it ought to be cast out of the Garden of Eden."

Sam Ervin smiles, grins, chortles, guffaws and harpoons witnesses with barbed anecdotes. He is not above using the same one three times in a single day to make three separate, distinct points. But when Ervin is at his best, which he has been frequently this year, his style can be devastating.

He was dumbfounded, almost, on the day that Attorney General Richard G. Kleindienst testified that the President had a constitutional right to control the testimony of every single employe of the executive branch, from janitor to letter carrier to national security consultant.

"Your position," asked Ervin, "is that the President has implied power under the Constitution to deny to the Congress the testimony of any person working for the executive branch of the Government or any document in the possession of anybody working for the Government?"

"Yes, sir," said the then-Attorney General, "and you have a remedy, all kinds of remedies—cut off appropriations. Impeach the President."

That seemed a mite extreme to Mr. Ervin. He brooded a while. Then, in a comment to the next witness, he sought to make the point that any official of the Government should have no reluctance to at least appear as a Congressional witness before deciding if he could answer a question without violating a Presidential confidence.

"One time," said the Senator, "I was holding court and a man wanted to be excused from the jury panel on the grounds he was deaf in one ear. And I said, 'We will wait to see whether you will be selected to be on a grand jury, because a grand jury only hears one side of a case.'" Ervin's only regret seemed to be that he had not remembered the anecdote before Kleindienst had departed.

Inevitably, when Ervin quizzes a witness, the discussion gets down to basics: the Constitution of the United States. The Senator is never without at least one blue paperbound copy and frequently has enough extras to pass out to any witness who might dispute his interpretation of the contents. "I would suggest," he remarked one day at a hearing on the impoundment of appropriated funds, "there are two books that should be in the White House to read. One is the Constitution of the United States and the other is Dale Carnegie's book on 'How to Win Friends and Influence People.'"

A few days later, at a subsequent impoundment hearing, the new Deputy Attorney General, Joseph T. Sneed—fresh from the post of Dean of Law at Duke University, where Richard Nixon studied law and in Sam Ervin's home state—made it a point to say he had brought along his own copy of the Constitution. He needed it.

Senator ERVIN. Now, is not the veto the only provision in the Constitution which gives the President the power to disapprove constitutionally, an appropriation bill or any other bill passed by Congress?

Mr. SNEED. Senator, if you mean by that the power to veto is exclusive and this ex-

cludes the impoundment authority, we do not see it that way.

Senator ERVIN. Well, is that not the only expressed authority conferred on the President to not carry out any act of Congress? It is his right to veto if he thinks it is improper.

Mr. SNEED. This is specifically conferred.

Senator ERVIN. And is it not a rule of construction of statutory and constitutional provisions that the suppression of one is the exclusion of another?

Mr. SNEED. Well, it is a canon of interpretation, and frequently followed.

Senator ERVIN. You mean that the President can refuse to execute an act of Congress without vetoing it?

Mr. SNEED. Senator, what I have really said is [that] the President, we believe, has the power by virtue of all the acts that have been enacted by Congress to which I have made reference [on the national debt limitation, the mandate to seek full employment and the requirements to curtail inflation] to impound funds in the manner in which he has done.

Senator ERVIN. Well, I am talking about the Constitution now, not the statutes.

Mr. SNEED. Well, as I say, when we get down to, as I mention in my formal statement, situations in which all of the statutory justifications for impounding were stripped away and we have simply a question of whether there is any constitutional power of the President to impound and Congress has said you must spend, it is our contention that he may refuse to spend and that the collision in that case between the Congress and the President is a political question that is not justificable.

Senator ERVIN. I am reminded of the story of the deacon who desired to preach. The deacon went to the board of deacons and wanted to know why they fired him, and he asked the chairman. "Don't I arguefy?" He said, "Yes, you arguefy, yes." He said, "Don't I sputify?" The chairman said, "Yes, you sure do sputify." He said, "What's the trouble with my preaching?" The chairman said, "You don't show wherein." I wish you would show wherein there is any provision other than the veto power that the President has the right to ignore any provision of Congress.

Mr. SNEED. There is no explicit power of impoundment.

Senator ERVIN. The power has to be either expressed or implied. Now, tell us where it is implied. If you will tell us where it is, we will facilitate this.

Mr. SNEED. We have to go, as far as the Constitution is concerned, to Article Two in Sections One and Two and Three.

Senator ERVIN. Well, the only thing I see in there that anybody has invoked so far is [the President's] power to see that the laws are faithfully executed. I cannot reconcile [your] conclusion with what the words say. If there is any other provision of the Constitution that provides that power—

Mr. SNEED. Senator, I have done my best to contribute to this discussion.

Senator ERVIN. Somebody told me once when I was representing a case, he said, 'You put up the best possible defense for a guilty client.'

The Chrysler made it through Hickory all right. The strip of truck terminals and furniture factories and discount stores and gas stations along the highway was still ablaze with light, but it was nearly midnight and there was little traffic.

"Ah think the President made a great mistake in his approach," said Ervin. " 'Cause ah have no doubt—in fact there's a good many people in Congress concerned about financial matters, the balance of payments, deficit spendin'—and ah think that if the President had called a group like that and approached them and asked them for he'p he'd have made much better progress. But apparently he has a feeling he has a great mandate and the Congress is just sort of a useless body standin' in his way."

Sam Ervin feels far from useless now. He is on top of his own world. Virtually every issue he has fretted about, almost alone, for 18 years is at the head of the Congressional agenda now.

The car slowed and crept through the edge of Morganton and turned left into the circular drive in front of a low-slung red brick house with a big white portico. Senator Sam and Miz Margaret stepped wearily out and trod into the entrance hall. It was cloaked in books from floor to ceiling. So was the big den just off the hall. And the little hallway between the den and the bedroom. Copies of the United States Code. Journals of Congress. Treatises on the Constitution. Big Bibles, small Bibles, stacks of theological and merely inspirational volumes. And the papers of the Presidents.

The Senator got out the bourbon and the box of potato chips and anticipated a few days of relaxation. The phone rang. It was C.B.S. in New York. Did the Senator have any comment on the latest newspaper accounts about the Watergate case? No, he'd have to refrain from comment and remain an impartial judge of the facts.

He sipped at the bourbon and tried to stay away, unsuccessfully, from the potato chips. There is the Senate election to think about in North Carolina in 1974.

"It depends on three things. What mah doctor says, whether the people want me and the family doctor."

"The time to quit," said Miz Margaret, "is when people want to stay."

LAW ENFORCEMENT AND THE HEROIN PROBLEM

Mr. JAVITS. Mr. President, last Monday the Executive Reorganization Subcommittee under the chairmanship of the Senator from Connecticut (Mr. RIBICOFF) held a public hearing in New York City on Reorganization Plan No. 2 which is now pending in our subcommittee.

Senator RIBICOFF and I heard testimony from a distinguished and diverse group of drug treatment, prevention, prosecution and enforcement officials in the New York metropolitan area and I commend and thank all the witnesses for their testimony which was most helpful and important; and the chairman for coming to New York City, where unhappily we have an undue share of drug abuse. The hearing was designed to explore changing patterns of drug abuse and trafficking and the interrelationships of law enforcement and treatment approaches. Specifically, we inquired into the following problems:

First, the nature of drug use and abuse in the New York City school system, and the impact of drug education programs, particularly the new SPARK program to combat it;

Second, the patterns of drug abuse generally, especially the apparent decline in heroin availability and use, and the upsurge in the use of amphetamines, barbiturates, methaqualone, cocaine, and alcohol;

Third, the role of organized crime in drug trafficking and the difficulty in apprehending major traffickers;

Fourth, the complexity and high cost of effective drug enforcement and prosecution, especially in coordinating investigation and intelligence gathering; and

Fifth, the difficulty in tying drug treatment programs into the criminal justice system.

Mr. President, a most original and incisive point of view was articulated before the subcommittee by Mr. Mark H. Moore, who is an instructor in public policy at the Kennedy School of Government at Harvard University. He advanced a most interesting theory regarding the impact of effective law enforcement efforts upon heroin availability and resultant abuse of other dangerous drugs. He argued that law enforcement prevents heroin use, particularly among those not living in endemic areas, and also motivates users to seek treatment. He emphasized that we must constantly keep in mind that while law enforcement is an important instrument, it is only part of a strategy for controlling heroin problems and that treatment facilities are absolutely vital.

Mr. President, I ask unanimous consent that the text of Mr. Moore's testimony be printed in the RECORD together with a list of the panels at the hearing.

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

STATEMENT OF MARK H. MOORE

My name is Mark H. Moore. I am an instructor in Public Policy at the Kennedy School of Government at Harvard University. I have been a consultant to both the Addiction Services Agency in New York City and to the New York City Police Department. My doctoral dissertation is on heroin policy in New York City.

The issue I would like to address is what contribution can and should the enforcement of narcotics laws make to the overall objectives of heroin policy. I will discuss this issue in the following way:

First, I will assert that the major objective of enforcing narcotics laws is to prevent heroin use. I will discuss the mechanisms by which law enforcement has this effect, and the evidence which suggests that it would work.

Second, I will qualify this assertion by noting that law enforcement has harmful effects on the behavior and condition of people who already use heroin, and that law enforcement probably cannot even prevent heroin use among those now living in areas where heroin use is endemic. This qualification will indicate what policies *in addition* to law enforcement we need to achieve the purposes of heroin policy. I will end the testimony by summarizing the limited, but extremely important role that enforcing narcotics laws has in our overall heroin policy.

The most important single objective of enforcing narcotics laws is to *prevent* heroin use, i.e., to reduce the probability that those not currently using heroin will begin to do so. I will support that assertion by describing the mechanisms by which law enforcement creates a variety of inconveniences for experimental users, and by presenting evidence which suggests that inconvenience is enough to discourage many experimental users of heroin from continuing to use. One should keep in mind throughout the discussion that I am describing the reactions of *experimental* users of heroin rather than the reactions of *experienced* addicts. Given that experimental users of heroin are, by definition, not yet addicted to heroin, one would expect them to react much more to levels of inconvenience than experienced addicts.

The most common notion of the mechanism by which law enforcement prevents heroin use is by deterrence. New users are confronted by the prospect of arrest and imprisonment. Because of this risk, they decide

not to use heroin. This is *not* the mechanism which I think is important.

What I think is important is that law enforcement tends to increase the amount of time that it takes to find heroin, from 5 minutes to three hours. It also creates the possibility that a new user could spend 3 to 5 hours looking, and ultimately fail to "score". Both the inconvenience and the uncertainty discourage experimental users from trying to "cop".

Law enforcement tends to increase the amount of time it takes to cop and to reduce the probability of being successful by three different mechanisms.

First, law enforcement tends to reduce the aggregate supply of heroin. It does so in two different ways. One way is that heroin dealers are arrested and supplies of heroin are confiscated. It is this effect which is measured accurately by arrests, seizures, etc. and which is largely used to evaluate police efforts. While arrests and confiscations have a direct impact on the supply of heroin, this impact is usually short-lived. Both dealers and suppliers are easily replaced.

A much more important effect of law enforcement, and one that is rarely noticed and evaluated, is that enforcing narcotics laws gives all heroin dealers incentives to behave cautiously. What cautiously means is restricting the number of people who know they are in the heroin business, screening customers to eliminate information and undercover agents, and arranging elaborate "drop" strategies for exchanging heroin without being discovered in the act. What "cautious" means from the point of view of the volume of heroin that can be pushed into the street is "inefficient".

Dealers tend not to advertise, refuse to sell to suspicious customers, and spend enormous amounts of time on each transaction. Since each dealer is less efficient, the whole distribution system manages to push less heroin onto the street. My hunch is that the impact on efficiency is much more important in reducing the aggregate supply than the effect of direct confiscation.

The second mechanism by which law enforcement creates inconveniences for new users is that it tends to make dealers leery of strangers. Suppose for a minute that you are a heroin dealer. You have your choice between selling to two users whom you have seen around, who buy large quantities of heroin, buy regularly, are experienced in dealing with the police and are known to be "stand-up guys"; in selling to 10 people whom you've never seen before, who buy small amounts of heroin, buy irregularly, have no experience in dealing with the police, and have no reputation. Which group would you choose as your customers given law enforcement pressure? Most people would choose to sell to the two experienced users. This suggests that new users may experience unusual difficulty in persuading heroin users to deal with them. The dealers judge them to be bad risks relative to many other potential customers.

Third, law enforcement tends to keep heroin markets disorganized. Dealers go in and out of business. Places where one can buy heroin change from week to week and day to day. This rapid change does not necessarily confuse experienced users. They talk to one another frequently enough to keep up with these changes in the markets. New users, however, have much less regular access to information. They simply do not have six experienced friends who can keep them up to date on places to "score". As a result, they tend to find the heroin markets later and less reliably than experienced users.

In sum, law enforcement tends to reduce the aggregate supply of heroin, to make dealers afraid of strangers, and to keep heroin markets disorganized. The effect of this is to force new users to scramble to gain access to heroin markets. They must work to get information about where to "score", to overcome the dealers' suspicion, and must compete against experienced users for a limited supply of heroin. The new users experience this increased work an increase in the amount of time to "score", and a reduced confidence that they will succeed.

Given that law enforcement increases the hassle of trying to "cop" (i.e., raises the amount of time to find heroin from 5 minutes to three hours), is there any reason to believe that this increased hassle prevents heroin use? Isn't it true that if someone wants to use heroin, he will be willing to spend 2–3 hours looking for it?

My judgment in this issue is that there may be *some* people who are willing to search 3 hours, but they are a surprisingly small minority. There are two important pieces of evidence which suggest that the prospect of a 3 hour search is enough to discourage most potential users from experimenting with heroin.

The first piece of evidence is that no one searches intensively for heroin in the early stages of use. As Chein found in his definitive study at the onset of heroin use:

"The first try of heroin was a casual, social experience with peers." [1]

This finding has been replicated by many others. One possible though not necessary implication of this evidence is that if users had been forced to search actively for heroin, they might never have begun use.

The second piece of evidence is one small study of 40 people who began heroin use, enjoyed it, but abandoned it. In this study, 22 out of the 40 people have up heroin use because they lost their connection (i.e., their connection lost his connection, their connection was arrested, their connection moved, or they moved.) What is even more significant is that very few of those users who lost their connection made a serious effort to re-establish a connection. The users who lost their connection said they quickly became discouraged because they were "ignorant about who might constitute a new source of supply and known narcotics pushers refused to sell to people who were 'too young'." [2]

This evidence seems persuasive to me. The experience of the Vietnam users also seems to support the same point. While I can't report that evidence as directly as this other evidence, it seems that many of the Vietnam users gave up heroin use when they returned to the United States. I would attribute much of this apparent success simply to the fact that most soldiers find heroin much more difficult to find when they returned home than it had been in Vietnam. They couldn't find people to tell them how to get it. They were forced to deal with criminals and other people whom they didn't know or like. Given the trouble, it wasn't worth continuing to use heroin. Indeed, I would venture to speculation that those veterans who continued to use heroin were primarily those who returned to areas where heroin was available.

Thus, law enforcement tends to increase the "hassle" of finding heroin. An increased hassle in finding heroin tends to reduce the probability that non-users will begin to use heroin.[2] In short, law enforcement prevents heroin use.

There are two important qualifications to this conclusion. First, law enforcement is not likely to successfully prevent heroin use in areas where heroin use is endemic. Many non-users in these areas are known and trusted by dealers and are experienced in dealing with the police. No likely level of law enforcement is likely to raise their time to "score" by more than 2–3 hours. Law enforcement protects kids from Richmond and New Jersey much more effectively than it protects kids in central Harlem. This is particularly agonizing because the ghetto communities must bear the brunt of law enforcement efforts. They incur all of the costs, and none of the benefits. To prevent heroin use in these areas one must do much more than make heroin hard to find. One must provide jobs, schools and recreation opportunities that can compete with heroin use as an entertaining way for non-users to spend their time. Law enforcement may contribute to prevention in these areas by making these alternative activities relatively more attractive. But it cannot be expected to do the whole job.

Second, effective law enforcement has disastrous effects on the behaviour, condition and opportunities of committed addicts. Law enforcement tends to raise the risks of doing business for heroin dealers. As a result, they increase the market price of heroin, and dilute the quality. Raising the price of heroin may increase the number of crimes committed by users. By making the doses of heroin insterile and unpredictable, it threatens old users with risks of death and serious illness. By increasing the number arrested for narcotics crimes, more users are stigmatized. Some argue that there is a beneficial impact of enforcing narcotics laws even on the behavior, lives and opportunities of committed addicts. This benefit is that it increases their motivation to seek treatment. While this effect does seem to occur, it seems like a small benefit compared with the unfortunate effects of this policy. The most important implication of this observation is that enforcing narcotics laws *obliges* us to use other policies and programs to respond to the disastrous effects on the behaviour of current users. We must make a wide variety of treatment programs available to users who will volunteer. And we must provide alternatives to jail for users arrested on narcotics charges and charges associated with violent and property crimes.

In sum, law enforcement has two very important contributions to make to our overall heroin policy. First, it prevents heroin use. Second, it motivates users to seek treatment. However, law enforcement is only *part* of a strategy. It prevents heroin use only among those not living in endemic areas. To protect those who do live in endemic areas we must provide attractive competitive uses of their time. It has disastrous effects on the behaviour and condition of experienced heroin users. In order to cope with these disastrous effects, we must provide a rich array of treatment programs and invent procedures for diverting arrested narcotics users from jail. I believe that we should strengthen law enforcement to secure the benefits which law enforcement permits. However, it is important to keep constantly in mind that while law enforcement is an important instrument, it is only *part* of a strategy for controlling the heroin problems.

---

[1] Chien, et. al., *The Road to Heroin*, Basic Books, 1965.

[2] Robert Schasre. "Cessation Patterns Among Neophyte Heroin Users", International Journal of the Addictions, Vol L No. 2 June, 1966.

LIST OF WITNESSES

DRUG USE PANEL

Graham Finney, former Commissioner, City Addiction Services Agency;

Arthur Jaffe, Director, SPARK program, City Board of Education, who will be accompanied by three former addicts in the program;

Msgr. William B. O'Brien, President of Daytop treatment program;

Richard DeLone, Assistant Commissioner, Addiction Services Agency;

Prof. Mark Moore, Harvard University, specialist in the workings of the heroin distribution market.

PROSECUTORS' PANEL

Robert Morse, United States Attorney, Eastern District;

Walter Phillips, Assistant U.S. Attorney and chief of narcotics unit, Southern District;

Paul Curran, State Investigations Commissioner;

Frank Rogers, City-wide Narcotics District Attorney;

William Tendy, Assistant State Attorney General and chief of Southeast Region Organized Crime Task Force.

LAW ENFORCEMENT PANEL

William P. McCarthy, Deputy New York City Police Commissioner, Organized Crime Control, accompanied by

William Bonacum, Chief, City Police Department Narcotics Squad;

Daniel Casey, Regional Director, Federal Bureau of Narcotics and Dangerous Drugs;

John Fallon, Agent-in-Charge, U.S. Customs Agency Service;

Andrew Maloney, Regional Director, Federal Office of Drug Abuse Law Enforcement.

REGIONAL MEDICAL PROGRAM

Mr. MONTOYA. Mr. President, for years, families living in rural areas have been denied adequate health care. The requirement of sometimes traveling miles upon miles to receive expert medical assistance has been both an inconvenience and a health risk.

Yet when I think of the few alternatives which have been made available to them, I think of the saying, "Blessed are those that naught expect, for they shall not be disappointed." Pioneers who used to travel miles from any settlement knew they would not be able to receive expert medical care if illness occurred. They had no expectations, therefore, they were not disappointed. But this is the 20th century. With the numerous technological advances being made constantly, these disappointments are needless and inexcusable.

Seven years ago, however, the regional medical program was created for this purpose of providing this long overlooked health care. Since then, 56 programs have begun through coordination with universities, specially organized corporations, existing corporations, and medical societies. Through nationwide efforts of doctors, nurses, health administrators, and members of the public, over 9.6 million people received needed health care in 1972 alone. This included care in the specialized areas of heart disease, cancer, stroke, kidney disease, as well as preventive and emergency health care.

The program brought the advances of medical knowledge to the bedside of the patient by developing new skills related to coronary care units, developing stroke teams, and training neighborhood health aides and clinic assistants.

Though these programs have proven to be beneficial to many communities throughout the Nation, they have been met by the administration with insensitivity and indifference. Funds for these regional medical programs will soon be drastically cut resulting in the crippling or dismantling of existing programs throughout the Nation.

As a result, millions of Americans will again have to travel many miles to receive health care from well-trained, well-equipped medical centers. While some may receive treatment early enough, others may receive it too late, or if no transportation is available, not at all.

Destruction of these programs has been justified by the administration with three arguments.

First, the administration contends that Federal funds are being used to finance the continuing education for professionals generally capable of financing their own education to improve professional competence.

Consider the facts, Mr. President. Under the regional medical program of 383,000 providers trained in either new or improved skills only 78,300 were medical doctors, dentists, or osteopaths. Registered nurses and practical nurses represented 138,300 and allied health personnel totaled 166,660.

Further, Mr. President, through the efforts of RMP's, a substantial number of innovative new types of health personnel have been trained to provide the needed health care to American citizens. For example, RMP's have supported training and placement of nurse practitioners and physician assistants to extend the services of the family doctor in underserved rural and urban areas of the Nation.

In 1970 alone some 7,500 persons were trained in this and other types of critically needed new health manpower. By 1972, almost 14,000 people had been trained through RMP efforts. Projections for 1973 based on RMP's program requests indicated plans to train almost 38,000 new allied health professionals to serve in essentially new roles to fill gaps in providing health service.

These facts clearly indicate, Mr. President, that the Administrator's contention that RMP funds are being concentrated to educate professionals who are able to obtain this education without use of Federal funds, is without any merit or validity.

It is next contended by the administration that RMP's have abandoned their original mission of upgrading health care of persons threatened by heart disease, cancer, stroke, kidney disease, and related diseases, and have concentrated their efforts on improving health care delivery systems.

Consider the facts, Mr. President. In a report issued by RMP coordinators, figures cited show this change to be grossly inaccurate. The report shows that of the 9.6 million people served by RMP directly in 1972, about 2.3 million received care in the categorical areas initially given RMP. Another 2.4 million people were served by the administration initiated emergency medical service program funded by RMP. About 3 million people were recipients of primary care through demonstration projects.

It would seem, Mr. President, that RMP's are being phased out not because they abandoned their original mission, but because they expanded to a larger scope. In the budget narratives for 1972 RMP's were asked to work to improve access to health care delivery systems. Similar recommendations were made in a white paper issued by the administration in 1971. RMP coordinators point out that it is impossible to get the newest research developments to the bedside without first improving primary care. This logic is difficult to refute, Mr. President.

It is most difficult to understand the administration's argument when one considers that the number of persons treated in the areas of cancer and pulmonary diseases actually rose between 1970–73. The program's flexibility is exemplified by this increase, Mr. President, and the fact that the program was able to meet changing needs at the same time reducing their administrative costs by 50 percent in 3 years, is now being used to justify the argument that RMP's have abandoned their original mission.

In New Mexico, RMP's have meant that people in rural areas are able to obtain a variety of health services where before they had to travel many miles to obtain similar services.

New Mexico's program is rated among the top five in the Nation in effectiveness and I would like to briefly describe some of the activities of the program.

Created in 1968, it has responded to the public's need with enthusiasm and dedicated effort. New Mexico ranks third in the Nation in the number of cases per capita of rheumatic heart disease. Realizing that strep throat can lead to this disease, a highly effective streptococcal throat culture program has been initiated in the State. Strep throat culture program information has been disseminated to parents and communities through the local media, and culturing for the program is done at the Cuba Health Center in Cuba, N. Mex.

NMRMP's leukemia-lymphoma program has combined the efforts of 71 physicians throughout the State and doctors at Bernalillo County Medical Center to provide therapy and support care for cancer patients.

Accurate recording of the types of cancer afflicting New Mexicans was impossible before the NMRMP began a tumor registry program. Now one of the three of four most sophisticated in the United States, the program provides care, direct telephone communication data, as well as regular reports to give each hospital rapid access to cancer registry information.

Other New Mexico programs include:

The community rehabilitation program which brings basic rehabilitation services and continuity of care to rural areas. Some 3,000 health care providers and 1,500 consumers have been directly affected thus far.

A cultural laboratory which creates a greater awareness of cultural health practices in New Mexico, and provides language training to communicate with minority groups.

An emergency medical service technician training program which provides 500 hours to train technicians who will provide greater accessibility of medical services to economically depressed areas. High school graduates, both men and women, are given favorable consideration if they show an expressed interest

and desire to work in the field. Three residents of Mora County are now operating the only available ambulance service in that county.

A Health Information Center which, among other accomplishments provides dial-access tapes and toll-free phone line to provide health-related information and answer crisis questions.

The Health Sciences Information at the University of New Mexico Medical Library which provides education material for rural doctors.

The New Mexico shared purchasing activity that enables hospitals and clinics in the state to combine their purchasing of medical supplies, thus eventually saving patients millions of dollars.

The Poison Control and Drug Information Center which provides information on drug and poison antidotes. Statewide expansion involves the current person-to-person information distribution system, and a later change to a computerized system. Calls will be free.

The cardiopulmonary laboratory and therapist training program which delivers services to 250,000 residents of rural northern New Mexico. The majority of these being Spanish-surnamed and over 50 years of age.

In addition, its Regional Advisory Group has provided the vehicle by which the consumer, the planner, and the provider of services have joined hands and solved rural living problems.

Less than half of the advisory group's members are health care professionals or allied health workers. Most members are from the general public. Headed by an 11-member Executive Board, the group is divided into active committees that meet at least once a month. A Technical Review Committee determines whether a proposed program is a proper activity, and an Evaluation Committee insures that the program can be measured for effectiveness.

The efforts of the advisory group and others involved seem futile, however, because the Nixon administration's decision to terminate RMP cancels three New Mexico programs immediately. Several remaining programs will be continued until June 30, and five programs will only continue until December 31.

The administration has once again shown that it is easy to propose impossible remedies. To produce health, a program must examine disease, which it cannot do without funds. It is easy to trim a budget, but it is not easy to find a medicine for life once a man has died—and such deaths are likely to occur when citizens in rural areas are deprived of accessible, immediate health care.

As a member of the Appropriations Committee on Labor, Health, Education, and Welfare, I will strongly urge my colleagues to support continued funding of this program. At the same time, I encourage this body to support this program, which has proven to be the most viable form of health care for rural citizens.

Mr. President, although the program is scheduled for termination on June 30 of this year, I was most pleased to see the Congress take positive action to extend the life of the program. With similar legislation now before the House, I am hopeful that RMP's will be allowed to continue their work in the health field. Only a Presidential veto will prevent this.

Given the accomplishments of the RMP's, it is most difficult to justify or find validity in the actions of the administration to terminate RMP's.

If their arguments were valid, program structure changes would seem to be the constructive solutions. The administration, however, has the funds which would make it an independent, functional program. This illogical "remedy" is much too strong for the "disease."

I sincerely hope that my colleagues will join my efforts to insure the continuance of the regional medical program.

FUTURE OF THE REPUBLIC OF CHINA

Mr. HANSEN. Mr. President, a retired Marine officer, Col. A. M. Fraser, has had published in the February 1973, Marine Corps Gazette, a very concise post-World War II history of Taiwan and the Republic of China.

Colonel Fraser is well-qualified to make his observations about the "Future of Taiwan." He has since his retirement in 1964 been a political-military research analyst for the Institute for Defense Analyses and Historical Evaluation and Research Organization. While on active duty, he was senior Marine adviser to the Military Advisory Assistance Group, Republic of China.

At the conclusion of his article, Colonel Fraser makes statements, with which few Americans would disagree, as follows:

> No matter how much this nation wants to reduce its military presence and to see an end to trouble in Asia, we must remember that American support, freely and massively given, put the people of Taiwan—native and mainlander—in their present position. It would be morally indefensible now to abandon them to a fate not of their own choosing.

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

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

FUTURE OF TAIWAN

(By Col. A. M. Fraser)

Taiwan was called "Ilha Formosa"—Beautiful Island—by the Portuguese sailors who first saw it early in the 16th century. It is an island in a chain extending from the northernmost parts of Japan to the Philippines. The island is about 250 miles long and 60 to 80 miles wide. It is often said to be shaped like a tobacco leaf. The Tropic of Cancer intersects the island and the climate is generally sub-tropical, with typhoons a continuing threat during the season. Most of the arable land and the bulk of the people are found in a fairly narrow band along the west coast. A rugged mountain range, in which some peaks exceed 12 thousand feet, runs north-south almost the length of the island. Mainland China lies as near as 90 miles away across the Taiwan Strait. Labor-intensive agriculture has been the base of life in Taiwan, although modernization and industrialization have become increasingly important over the last 20 years. Strategically the island may be almost *too* close to the mainland, but it does possess several modern military airfields and naval bases. One major airfield has been a significant base for the logistic support of the Vietnam effort and, until the Taiwan Strait Patrol of the Seventh Fleet was discontinued, its destroyers operated out of the southern port of Kaohsiung.

Taiwan was a prize in the settlement of the 1895 Sino-Japanese War. From 1895 until 1945 the island was a Japanese colony and the government on the mainland had no contact with it. Prior to 1895 the central government of China had ruled, with some European and Japanese competition and varying degrees of success, at least from the latter days of the Ming Dynasty (ended 1644). The people of Taiwan are largely ethnic Chinese, no mater how they may be viewed as a political entity. At the present time the population of Taiwan is about 15 million. Two per cent are aborigines, a people of the same stock as the hill tribes of Northern Luzon. Fourteen per cent are mainlanders who emigrated between 1945 and 1949, mostly as a direct result of the Civil War on the mainland. The remainder—some 84 per cent—are *Taiwanese* Chinese whose progenitors had arrived from the mainland provinces of Fukien and Kwangtung across the Strait, beginning late in the 15th century. There are social and cultural differences among the several Taiwanese Chinese groups, deriving from their several points of origin—"the native place"—on the mainland.

In the instrument of surrender at the end of WWII, the Japanese accepted the Potsdam Declaration (June 1945) which had reaffirmed the earlier Cairo Declaration (December 1943) which had said that it was the purpose of the Allies to see that Japan returned all the territories stolen from China such as Formosa, the Pescadores and Manchuria. The Yalta Agreement in February 1945 did not address the status of Taiwan. Chinese forces took over administration of Taiwan from the Japanese.

Nationalist rule replaced Japanese control over a people who had come to think that they were going to be liberated from oppression. But, of the mainlanders when they took over, Gen. Wedemeyer said "The Army conducted themselves as conquerors." The events of 1949 on the mainland brought the remnants of the Nationalist Army and the civilian supporters of Chiang Kai-shek's government to Taiwan, perhaps two million altogether. There are many reasons for the disenchantment that arose and grew between Mainlanders and Taiwanese. The administration that took over in 1945 was in some respects a military government over people who had been collaborators with the Japanese. As much as 90 per cent of former Japanese enterprises were brought under government control. Mainlanders displaced locals in many major posts and some elements of a "spoils system" hindered efficient operations. Restrictive business licensing practices were imposed, along with other actions that seemed to operate against the Taiwanese. There has always been disagreement over the reasons for the slowness of recovery and rebuilding in Taiwan. Some of the fault surely rested with shortsighted and venal officials. Part was due to the extent and nature of the damage suffered in WWII. Finally, the Nationalists were fully occupied with the ongoing Civil War on the mainland and had little time or resources to devote to Taiwan as a special case.

In February 1947 there was a serious uprising against the mainland government in Taiwan, whose head, Chen Yi, is generally agreed to have been inept and cruel. The incident was triggered by the killing of a Taiwanese woman who was selling cigarettes upon which tax had not been paid. Conflict

quickly spread to produce a real Mainlander-Taiwanese confrontation. It has been asserted that as many as 10 thousand Taiwanese were killed by government troops. By the end of March the revolt had been suppressed. A respected official from the mainland, sent to investigate, blamed the affair on Communist activities, the results of Japanese training, and unscrupulous Taiwanese politicians. Whatever the causes, the animosities engendered and expressed in the conflict have not entirely disappeared, even though 25 years and shared prosperity have served to reduce the tension.

THE ANTAGONISTS

It has never been thought, in Taipei or Peking, that a "two China" outcome of the Taiwanese question would be acceptable. Both parties view themselves as the legitimate government of all China, and agree that China includes the territory now controlled by the Nationalists. There is a civil war, still unsettled, and the total extent of the nation so divided has never been in question. There is of course much talk about an independent Taiwan or a "one China, one Taiwan" outcome. There has been for a long time a Taiwan independence movement. Students in the U.S. and voluntary exiles in Japan and other places have kept the issues alive and generated sympathy for their cause. Recent events, which will be discussed later, cast some doubt on the prospects for a clearly separate Taiwanese nation.

The existence of an unresolved civil war is attested by the history of actual fighting that has taken place in the general area of Taiwan. In October 1949 there was a short and bloody battle for the island of Quemoy. A Communist landing attempt was defeated by the Nationalist garrison, with a cost in casualties to the landing force that has been claimed to be 15 to 19 thousand.

In September 1954 there ensued the so-called "First Taiwan Strait Crisis." The Communist forces shelled offshore island positions heavily and the Nationalists replied with air attacks on mainland targets. In December the Tachen Islands were blockaded and in February 1955 they were evacuated by the Nationalists. These islands were extremely vulnerable and the U.S. apparently was unwilling to view them as being protected by the President's authority to defend places related directly to Taiwan. Third Marine Division shore party elements assisted in the removal of those who did not want to remain on the islands under Communist control.

"The Second Taiwan Strait Crisis" began with heavy shelling of Quemoy on 23 August 1958. In this, as in other actions, the Matsu Island group also got its share of attention although, throughout several periods of active combat, attention focused on Quemoy to the south. It was seemingly more important in the general political as well as tactical schemes of things and military action was accompanied by intensive political maneuvering. This time the Presidential authority to act was invoked and the U.S. began support of the Nationalists in several significant ways. Resupply vessels were convoyed to the three-mile limit, in the face of Peking's claim to a twelve-mile boundary. There was sizable support of resupply actions. Eight-inch howitzers were brought to the Quemoy garrison by troops from the Third Marine Division. First Marine Aircraft Wing units, flying from Taiwan, provided cover for resupply, particularly at night. The shelling was extremely heavy and the Nationalists were threatened with a Communist landing which never materialized. Throughout this period the U.S. emphasized that its efforts were purely in the interest of defense and not in support of any attempt to retake the mainland. The Soviet Union showed less militancy than Peking would have wished. For a number of reasons, Peking announced the suspension of shelling on 6 October, but alternate day firing in generally lesser volume has continued and special events, such as President Eisenhower's visit to Taiwan in June, 1960 were marked by heavy increase in action as an expression of disapproval by the People's Republic of China (PRC). For some time now the every-other-day action has involved the airburst firing of propaganda shells by both sides, with little or no physical damage. The number of rounds fired from mainland batteries by now is reckoned at more than one million.

In June 1962 both sides took significant actions that could prudently be seen as preparations for aggressive action. There is some disagreement among observers as to which side had invasion in mind and which had reacted by defensive moves, but in any event battle was not joined. It has been reported that President Kennedy took the occasion to reassure the Communist leaders that the U.S. would not support an invasion effort.

The foregoing is a bare outline of hostile actions between the parties. Raids, reconnaissance by many means, espionage, and small actions at sea have been too numerous to chronicle here. The importance of all this action is that it asserts what both sides believe—the war is not over. It is clear to military professionals that an amphibious operation against the mainland could not be mounted and maintained in effective size without massive sea, air, and logistics support by the U.S., which clearly is not part of American policy. The PRC, for its part, is equally unable to attempt seizure by force as long as the U.S. maintains its commitment to assist, particularly with the Seventh Fleet. It may be argued that extreme political and social turbulence on either side of the Strait might create more favorable conditions for an attack. This may be so, but the effect of this possibility is to make both sides careful to avoid such a level of chaos.

UNITED STATES INFLUENCE AND ACTIONS

Without attempting to recount, however briefly, the history of Sino-American relations after 1945, it is necessary to highlight some of the events that characterize U.S. involvement in the fate of the Nationalist government and in the endurance and prosperity of that government on Taiwan.

President Truman, in his December 1945 instructions to Gen. Marshall, stressed the need for cessation of the internal war in China and his desire for unification. While urging some broadening of the governmental base, he linked such action to the elimination of "autonomous" armies—meaning, of course, the Communist forces. Despite American efforts (however they may be viewed) the Chinese Civil War went on and the Nationalist forces eventually found themselves sequestered on the island of Taiwan and a few other smaller pieces of offshore real estate.

On January 5 1950 President Truman disclaimed any desire for any special rights or privileges in Taiwan. Further, he said that U.S. armed forces would not interfere in the ongoing situation and would not pursue a course that would lead to involvement in it. He ended with ". . . the United States Government will not provide military aid or advice to the Chinese forces on Formosa." Less than six months after taking this position and two days after the first attack in Korea the President altered course. Noting that Communist occupation of Formosa would threaten security of the Pacific area he said (on 27 June 1950) that he had ordered the Seventh Fleet to prevent any attack on Formosa. He called upon the Chinese government on Formosa to cease all air and sea operations against the mainland and said that the Seventh Fleet would see that this was done. He ended saying that the future status of Formosa must await the restoration of security in the Pacific, a peace settlement with Japan, or consideration by the United Nations.

Much has been said about the strategic importance of Taiwan. One of the strongest views was expressed by Gen. MacArthur to the Senate Armed Forces and Foreign Affairs Committees in 1951. His concern was over Taiwan in hostile hands and he did not see it as important for U.S. bases or other purposes. He described it as menacing to Alaska, Washington State, Oregon, California, and Central and South America. In enemy hands, he said, it would make the whole line of defense in the Pacific untenable. In his words "It just gives them the master strategic bastion at a point which would increase their striking capacity many, many times." Of Taiwan, the U.S. Ambassador in 1969, Walter B. McConaughy, said "Lying midway along the offshore island chain stretching from Japan to Indonesia, Taiwan occupies a strategic position, not only in military terms, but in respect to the lines of communication and trade which are important to the continued development of the East Asian region as a whole." It has been popular to describe the island as an important position in a continuous offshore chain which, if fractured by the loss of Taiwan to a hostile power would seriously impair the whole American position in East Asia.

The entry of Communist China into the Korean War had of course sharpened and given immediacy to U.S. views of that nation's hostility. The balancing of considerations apparent in the President's 27 June statement changed, over time, to a position in which the U.S. became actively involved in the fate of the Nationalist government.

A Mutual Defense Treaty between the United States of America and the Republic of China entered into force on 3 March 1955. Article V included these words:

"Each party recognizes that an armed attack in the West Pacific Area directed against the territories of either of the parties would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes."

Article VII gives the U.S. the right to dispose land, sea, and air forces in and about Taiwan and the Pescadores as might be required for their defense as mutually determined. Official agreements related to the treaty covered inherent rights of self defense under attack, provided for prior consultation and joint agreement over the use of force when both parties were involved, and pledged that jointly developed forces would not be removed from agreed territories without mutual agreement. A Joint Resolution of the Congress gave the President of the U.S. the authority to employ armed forces to protect Formosa and the Pescadores, with the further stipulation that he might also act to protect such related positions and territories of that area then in friendly hands as might be necessary in assuring the defense of Formosa and the Pescadores. We may say that the U.S. has stood solidly behind the Republic of China's (ROC) running battle with the PRC, while acting also to restrain any major attack on the mainland.

The Republic of China demonstrates what the long-term application of the Nixon Doctrine may mean, even though that doctrine was not formally announced until long after U.S. aid to the ROC had begun. U.S. military aid programs, with increasingly greater emphasis on purchase rather than grant acquisition, have armed and equipped a force of about half a million men. There are some 18 Army and two Marine divisions, plus two armored brigades and assorted combat support and support units. The Navy is built around 11 destroyers and 18 DE's, with the backing of sizable numbers of support and auxiliary vessels, and some 21 LST's. The Air Force is mainly a high performance defense

force with a fair-sized transport capability and some modern reconnaissance elements. There are about 80 F–100, 70F5A, and over 50 F–104A.

THE ECONOMY

The economy of Taiwan under Japanese control was integrated into a total system as a "feeder." Export trade was controlled by the Japanese and was almost entirely based on agricultural items—rice, sugar, livestock, some tea, and fruit. Under Nationalist control, and with the boost in extensive aid, the economy has flourished and the nature of export trade has changed decisively. In 1952, agriculture produced almost 36 per cent of net domestic production and industry 19 per cent. In 1971 these figures were almost exactly reversed. Between 1959 and 1971 Taiwan's foreign trade grew from just over $400 million to almost $5 billion (estimated) for 1972. This compares with just over $4 billion for Peking. Per capita income has reached $360 per year. Principal exports are now textiles; electronic and electrical products are in second place, followed by plywood, metal products, machinery and sugar. Aggregate foreign investment will soon reach $800 million of which Japan's share is about $100 million. Employment conditions are good and further helped by the fact that the military establishment keeps more than three per cent of the able-bodied males off the labor market. The U.S. Ambassador stated in 1969 that economic growth and the value of industrial output were growing steadily, the foreign exchange position was strong, and there was an impressive increase in the growth rate of exports. It is clear that the economy of the ROC has made impressive progress and moved with dispatch toward diversification and modernization.

THE STRATEGIC VIEW

The military facilities on Taiwan are of some use in the Vietnam war. Logistic support to Indochina involved about nine thousand men in 1969–70, flying and supporting cargo and tanker aircraft, in some small fighter detachments, and manning the usual headquarters. The U.S. Taiwan Defense Command, a planning element with no troops assigned, numbered fewer than 200. The MAAG at that time numbered about 500, but the strength continues to drop as the transition is made from grant aid to purchase of equipment. There are small units involved in a few highly specialized communications and intelligence activities. There are no primary U.S. combat units stationed in Taiwan.

In a major war the U.S. would probably find air facilities in Taiwan very useful, with the reminder that they may be a little too close to the mainland. There is little space for housing and training ground troops beyond the needs of Nationalist forces. There could be some minor use of naval facilities, but these too would have little to spare on a recurring basis after taking care of their own forces.

There is one special point to remember about Taiwan in the hands of a government hostile to the mainland leadership. The PRC is rightfully fearful of having to fight on more than one front. The Nationalists have made no secret that they consider times of turmoil and difficulty on the mainland favorable to their return. The forces on Taiwan—and particularly if they had U.S. air and naval support—constitute a real threat to carve out a piece of the east and southeast area should Peking become heavily involved with the Soviet Union along their 4,500 mile border in the north. The U.S. in the past has assured the PRC that it would not participate in or support an aggressive move from Taiwan. The present trend in U.S.-PRC relations suggests the further reduction of such a possibility. Nevertheless, the physical facts of the situation imply a capability which, under favorable conditions, could be most dangerous to the mainland.

What would be the strategic value of Taiwan in the hands of an enemy of the U.S.—and most particularly an aggressive China? In terms of conventional operating conditions the "island chain" as discussed by Gen. MacArthur and Ambassador McConaughy would of course be interrupted. The patrol range of Communist aircraft would be increased by the distance between Taiwan and the mainland. Naval vessels, and most particularly submarines, would have much freer access to the open sea. Air and sea routes now in common use would become vulnerable and in time of tension or hostilities would have to be moved eastward. If Chinese hostility extended to Japan the vulnerability of Japan's fuel and raw materials transport systems would increase sharply. Conversely, the U.S. would face all the military inconveniences of a power into whose lines the enemy had been able to force a salient.

In the strategic sense the PRC would derive a benefit from possession of Taiwan that might, in its total effect, be more significant than any other. The threat from Nationalist forces would disappear and one of the principal points of origin for one element of a two-front attack would be eliminated.

THE CHANGING WORLD

Taiwan's diplomatic losses over the last two years have been substantial. Although many observers felt that the ultimate entry of the mainland government into the United Nations was inevitable, the swiftness and style of the action was shocking when it came. Taipei feels a sense of betrayal, particularly on the part of the United States and Japan. The blows have been suffered with dignity and with assertions of the intent to carry on and to survive. But no one thinks that the ROC position has not been eroded.

More specific events have increased concern. In the Shanghai communique of 27 February 1972 the U.S. acknowledged that all Chinese on either side of the strait "maintain that there is but one China and that Taiwan is part of China." The U.S. reaffirmed its interest in a peaceful settlement of the Taiwan question by the Chinese themselves. It went ". . . it (U.S.) affirms the ultimate objective of the withdrawal of all U.S. forces and military installations from Taiwan. In the meantime it will progressively reduce its forces and military installations on Taiwan as the tension in the area diminishes." The "saving" nature of the last phrase cannot be ignored, but the use of Taiwan as a bargaining counter in some long-term negotiations between Peking and Washington is not reassuring to the Nationalists.

It is recalled that the Nixon-Sato joint statement of November 1969 asserted, among other things, that the security of Taiwan was "a most important factor" for the defense of Japan. This statement did not contain any specific indication of the form that Japanese assistance in the defense of Taiwan might take, but it was widely believed that at the least Japan would concur in the use of Japanese and Okinawan bases by U.S. forces should it be necessary. The Nixon visit to China in February 1972 brought about an extensive re-examination of the whole position by Japan's leaders. In May, Mr. Fukuda, then Foreign Minister, said that the 1969 statement was "dissolving" because the changing situation in the area, a change he attributed to the Sino-American summit.

When Mr. Tanaka took office as Prime Minister of Japan, one of his first acts was his own summit meeting with mainland leaders. The swiftness of his movement can only add to the uncertainty over the future of Taiwan. The official communique issued in Peking on 29 September includes these statements:

The abnormal state of affairs which has hitherto existed between the People's Republic of China and Japan is declared terminated on the date of publication of this statement.

The Government of Japan recognizes the Government of the People's Republic of China as the sole legal government of China.

The Government of the People's Republic of China reaffirms that Taiwan is an inalienable part of the territory of the PRC. The Government of Japan fully understands and respects this stand . . .

The (two governments) have decided upon the establishment of diplomatic relations as from September 29, 1972.

The (two governments) agree to hold negotiations aimed at the conclusion of a treaty of peace and friendship.

Mr. Tanaka had said earlier that it would be impossible for Japan to continue diplomatic relations with the Nationalist government on Taiwan after relations with mainland China were normalized. A few days earlier a special envoy from Tokyo, Mr. Shiina, had arrived in Taipei with the joyless task of trying to explain the new Japanese initiatives to the government there. He was given a stern lecture and some vague threats over what was seen as an abrogation of the 1952 Treaty between Japan and the Nationalistic government. On 29 September, Taipei announced that it was severing relations with Japan because of that nation's perfidious action in establishing relations with the mainland. In Tokyo the ambassador from Taipei was told that diplomatic relations between his country and Japan had "ceased to exist."

Even though Tanaka has warned his people that there is much still be done in the development of new relations with Peking, it must be accepted that the sought-for improvement will at the least require Japan to demonstrate that she will not participate in military actions that might be distasteful to the PRC. The whole effect of Tanaka's initiatives can be seen from Taipei only as further erosion of status in the world community, as well as further complication in her security situation. This is not to say that the Republic of China does not still see the absolutely fundamental importance of the U.S. commitment; it simply must be recognized that the physical problems of U.S. assistance in time of war would be considerably magnified if the bases in Japan and Okinawa were denied to U.S. forces.

PROBLEMS OF THE NEW SITUATION

It is too early to try to assess all the effects of the massive changes that have come about in international affairs as products of new goals and styles in Peking's conduct. Some modest analyses of the range of conditions facing the Republic of China on Taiwan, however, may be made.

Politically the prospect is not encouraging. The ROC has been expelled from the United Nations and its principal organs. The PRC has even moved to stop the publication of information about the ROC in UN statistical reports and caused to be removed the plaque from a gift the ROC made to the UN headquarters. Over 80 nations now have diplomatic relations with Peking rather than Taipei. The U.S. is the only major nation maintaining full contact with the ROC. Over time this situation is bound to be difficult. Taipei will be denied contacts and exchanges that are important ingredients in the life of a nation. There will be barriers to trade and travel. It must be anticipated that the PRC will, when it seems advantageous to do so, make reduction of contact with the ROC a condition of good relations with itself.

The internal political situation in Taiwan is even now changing in a not entirely unexpected way. Several observers have commented that the new situation tends to drive the Taiwanese and the Mainlanders closer together. There is no evidence that anyone in Taiwan favors reunion with the mainland

on Peking's terms. Avoidance of this contingency tends to reduce the importance of other political alternatives and to narrow the range of choices open to Taiwanese politicians. Most of the nations now dealing with the PRC have agreed in some way that there is only one China. Thus, the chances for recognition and international status for a new nation (whatever it might call itself) are poor. Of direct and critical importance is the operation of the Mutual Security Treaty. This agreement was made between the United States and the Republic of China. There is no provision or open assurance that it would be transferred to a successor government on Twaian and of only Taiwan. In the absence of a firm U.S. security guarantee, no government could hope to stand long against the PRC. While the situation thus tends to reduce enthusiasm for a "free Taiwan" it also endows the Taiwanese with some leverage in national affairs, since their cooperation in preserving the common future is essential.

The flourishing economy and accompanying personal well-being in Taiwan are among its greatest assets. The PRC has made a number of attempts to influence trade relations, particularly those between Taiwan and Japan. In the past Peking has proclaimed its refusal to deal with Japanese firms dealing with Taiwan or having substantial interests there. In some cases the Japanese have complied; in others dummy corporations have been set up to cover operations. The Japanese have had some success in keeping a foot in both camps. In a press conference in Washington on 19 October 1972 the Japanese Foreign Minister, Mr. Ohira, said that China did not object to Japan's continued economic and cultural ties with the Nationalists on Taiwan. How specific and enduring this attitude may be remains to be seen.

Taiwan is by no means complacent. On 9 October the ROC Economic Minister, Mr. Y. S. Sun, emphasized that self-sufficiency was the economic policy objective and the ROC would continue to strengthen economic and trade relations with "non-hostile" nations of the world. It is interesting that Peking may not be entirely opposed to such actions. It has been rumored that the Communist government has taken a relaxed and rather permissive view of third-country investment in Taiwan. This makes sense if the PRC really believes that Taiwan will eventually come into its hands without war. Increased investment means increased productivity and prosperity. Even today, the foreign trade of Taiwan exceeds that of the mainland.

Mr. Sun noted redoubled efforts to expand heavy industry, to develop chemical and petrochemical industries, and to increase output of machinery, steel, and ships. New agricultural programs to increase output and farm prosperity were also mentioned. Taiwan's best hope for survival lies in just such programs. In the world of international trade the ROC must continue to offer values that attract buyers, despite efforts to stifle trade through political action. Taipei's economic planners are aware that they must move toward a system that is better able to operate as a complete national entity rather than as a part of another larger mechanism. For example, the manufacture of electronics has often involved the assembly of components produced elsewhere and the marketing of the finished product has been managed by an outsider. Some of this will necessarily persist, but alternative sources of inputs will have to be sought and marketing brought firmly under home control. Most particularly, any reduction of Japanese activity could only be replaced by, or through the cooperation of, the United States. Meantime, the ROC government shows determination to carry on and the people continue to constitute an energetic and productive work force whose wage demands make their output competitive in world markets.

The third major problem confronting the ROC is that of physical security. The only enemy is the PRC. The only effective ally is the United States. The loss of Japanese cooperation and support in the defense of Taiwan would make things more difficult, but the only critical determinant is the American will to act. The Nationalist forces are well-armed and prepared. Nevertheless, the mainland, if not occupied and diverted as she now is by the Soviet Union, could pay the price and overwhelm Taiwan's defenses by sheer numbers, even though the cost would be great. The political leaders have reiterated that Taiwan would be taken by political means and that military action was not necessary. This may be their actual belief, but we may be sure that it is reinforced by the presence of the Seventh Fleet.

This nation and many others will no doubt encourage any mutually acceptable movement toward accommodation between the two groups. It is popular to say that this will take place in some subtle and mysterious Oriental fashion, probably over a long period of time. This may be so, but the Republic of China must not be coerced simply because the U.S. is no longer seen as a reliable protector. Some appropriate physical American commitment is needed. No matter how much this nation wants to reduce its military presence and to see an end to trouble in Asia, we must remember that American support, freely and massively given, put the people of Taiwan—native and mainlander—in their present position. It would be morally indefensible now to abandon them to a fate not of their own choosing.

AMERICAN PEOPLE OPPOSE CAMBODIAN BOMBING

Mr. CHURCH. Mr. President, the American people are opposed to the bombing in Cambodia and Laos by a 2 to 1 margin, according to the most recent Gallup poll. By a similar ratio, the American people believe that U.S. bombing will lead to the reinvolvement of our Armed Forces—air, land, and sea—in Indochina's continuing conflict.

In response to the question, "Do you think further military action in Southeast Asia should require a vote of approval by Congress, or not?"—76 percent said, "Should." It is my sincere hope that, with the Eagleton amendment to the second supplemental appropriations bill and the Case-Church amendment to the State Department authorization bill, such a condition will become the law.

I ask unanimous consent that a Washington Post article of May 13 on the Gallup poll be printed in the RECORD.

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

THE GALLUP POLL: BOMBINGS OPPOSED BY 2-TO-1 MARGIN

(By George Gallup)

PRINCETON, N.J.—The latest nationwide Gallup survey shows Americans opposed to the bombing in Cambodia and Laos by a 2–1 margin and, by approximately the same ratio, they think that bombing will lead to a reinvolvement of American troops in Southeast Asia. In addition, by an overwhelming majority, the public wants congressional sanction of further military action in Southeast Asia.

The peace agreement signed in Paris last January ended active American involvement in the fighting in Vietnam. United States forces have, however, continued bombing, particularly in Cambodia.

Nearly 6 in 10 Americans (57 per cent) disapprove of the bombing and 29 per cent approve; 14 per cent have no opinion. Correspondingly, 59 per cent feel the bombing will lead to renewed American troop commitment in Southeast Asia, 26 per cent think it will not, and 15 per cent have no opinion.

By a 6 to 1 margin (76 to 13 per cent), Americans feel the President should seek a vote of approval from the Congress before carrying out additional military action in Southeast Asia.

Earlier this month in his State of the World message, President Nixon termed the situation in Laos and Cambodia "fluid," and warned that in continuing to violate the peace agreement North Vietnam risked "revived confrontation" with the United States.

Presidential critics have said Mr. Nixon should seek congressional approval before undertaking acts of war such as the bombing of Cambodia. Two weeks ago, in defending administration policies before the Senate Foreign Relations Committee, Secretary of State William Rogers claimed war powers were deliberately left vague and ambiguous in the Constitution on the assumption they would be "defined by practice."

Large majorities in all major groups support congressional approval prior to further military action in Southeast Asia. Approximately the same proportion of Republicans, Democrats and independents (three in four) think approval of Congress should be required prior to further U.S. military commitments.

Here are the questions asked with the findings:

"As you know, U.S. planes are bombing Communist positions in Cambodia and Laos. Do you approve or disapprove of this action?"

[In percent]

	Approve	Disapprove	No opinion
National	29	57	14
Republicans	40	47	13
Democrats	20	64	16
Independents	32	57	11

"Do you think this action will lead to our getting involved in Southeast Asia again with U.S. troops?"

[In percent]

	Yes	No	No opinion
National	59	26	15
Republicans	46	38	16
Democrats	67	19	14
Independents	61	25	14

"Do you think further military action in Southeast Asia should require a vote of approval by Congress, or not?"

[In percent]

	Should	Should not	No opinion
National	76	13	11
Republicans	73	18	9
Democrats	79	7	14
Independents	77	16	7

The findings reported today are based on interviews with a total of 1,548 adults, 18 and older, interviewed in person in more than 300 scientifically selected localities during the period April 27–30.

MEAT INGREDIENT STANDARDS

Mr. GRIFFIN. Mr. President, last February, I introduced a bill (S. 991) to make clear that minimum ingredient standards for meat products promulgated under Federal law should not be interpreted so as to abrogate enforcement of higher standards already established by State law.

This legislation was drafted after the Sixth Circuit Federal Appeals Court ruled last fall that Michigan's ingredient standards for meat products could no longer be enforced because of enactment by Congress of a weaker Federal statute.

Application to have that ruling reviewed was filed in the U.S. Supreme Court. And it had been the hope that the Supreme Court would consider and overturn the decision on appeal, thereby making further legislative action by Congress unnecessary. Unfortunately, however, the Supreme Court this week refused to hear the appeal.

Now, consumers in Michigan—for the first time in nearly 20 years—may find that hotdogs and other meat products for sale at Michigan stores will be made of pig snouts, spleens, udders, salivary glands, stomachs, and other animal organs. Until now, such items could not be ground up and included in meat products sold in our State.

On April 2 of this year, during Senate debate on related legislation, the distinguished chairman of the Subcommittee on Agricultural Research and General Legislation (Mr. ALLEN) assured me of his willingness to hold, hearings on my bill. Although no hearings have yet been scheduled, I am confident that the subcommittee chairman will soon set a date for hearings.

Mr. President, for the past 20 years, Michigan has required that skeletal meat be used in comminuted meat products, such as hot dogs, sausages, and luncheon meat. In addition, Michigan standards also require a minimum 12-percent protein content in such meat products.

By contrast, the existing Federal statute sets no minimum protein standard whatever and, contrary to Michigan law, permits the use of such animal byproducts as snouts, lips, spleens, udders, salivary glands, stomachs, and other organs.

The call which I sound now for legislative relief from this situation is not new. In the closing days of the last Congress, at the urging of Michigan officials and consumer protection representatives, the House Agriculture Committee amended a meat inspection bill to make clear that States such as Michigan with higher standards would not be penalized. Unfortunately, the bill as so amended did not become law.

Until the Supreme Court refused this week to hear the appeal from the Sixth Circuit Court of Appeals, there continued to be hope at least that legislation might not be necessary. But now it is clear that there is no alternative.

When a new Federal law setting minimum standards operates to wipe out higher State standards that have effectively protected consumers for a long period of time—without even so much as a price benefit to consumers—it is time for Congress to take a closer look at its handiwork.

Preserving the high quality of meat sold to Michigan consumers is an important issue in my State. Just recently the Michigan legislature adopted a resolution requesting that Congress upgrade Federal standards to conform at least to those now existing in Michigan.

Mr. President, I ask unanimous consent that a copy of that resolution be printed in the RECORD.

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

SENATE CONCURRENT RESOLUTION No. 32

A concurrent resolution requesting the Congress of the United States to upgrade the Federal meat standards of the United States

Whereas, The State of Michigan has for many years had one of the highest acts relative to the meat standards within the United States and as a consequence the people of the State of Michigan have enjoyed wholesome and outstanding meat products; and

Whereas, During recent months there have been federal court cases involving the high standards set by this state's high meat standards in which out-of-state meat packers have challenged the Michigan law on the grounds that our standards are higher than the federal standards and as a consequence the people of the State of Michigan might soon be faced with the prospects of lower meat standards and lower quality meat products than that established by its own meat standards; and

Whereas, The Federal Wholesome Meat Act, despite its protective sounding title, does not guarantee the consumer high quality wholesome meats but permits the addition of many by-products of animal slaughtering which the State of Michigan does not allow; and

Whereas, Michigan's high standards for comminuted meats are still being enforced under terms of a federal court stay, while the State of Michigan seeks an appeal to the United States Supreme Court, there is a distinct possibility that the eventual outcome of this litigation is that the State of Michigan will be flooded with meats and meat products which do not meet the high standards imposed by this state's meat standards but which meet the standards set by the Wholesome Meat Act; now therefore be it

Resolved by the Senate (the House of Representatives concurring), That the members of the Michigan Legislature urge the Congress of the United States either to amend the Federal Wholesome Meat Act to guarantee wholesome meats throughout the country of at least the standards set by the meat standards of the State of Michigan or else amend the Federal Wholesome Meat Act in such a way that would permit individual states to impose higher standards for meat products within its own state than those imposed by the Federal Act; and be it further

Resolved, That a copy of this resolution be submitted to the presiding official of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Michigan delegation to the Congress of the United States.

Adopted by the Senate, February 8, 1973.

Adopted by the House, April 12, 1973.

PUBLIC FINANCING OF ELECTIONS

Mr. ABOUREZK. Mr. President, I ask unanimous consent that two recent articles from the Wall Street Journal, "How Should We Finance Elections," by Arlen J. Large and "Another View of Election Spending," by Jerry Landauer, to be included in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. ABOUREZK. I was extremely pleased and appreciative that the Democratic Conference chose last Wednesday, May 9 to adopt a resolution in support of public financing legislation. I ask unanimous consent that the text of this resolution also be included in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. ABOUREZK. Mr. President, I feel very strongly that the time for serious consideration of public financing legislation has now arrived. From time to time I intend to place in the RECORD materials which I believe will help provide the Senate with information on this subject. I encourage Senators to join me in sharing similar information with the Senate and to take a few moments to examine the materials that appear in the RECORD.

There would be no better place for any person interested in the subject of public financing of elections to begin his study than by reading the article by Mr. Landauer which appeared in the Wall Street Journal on May 14. Mr. Landauer's essential point is that public financing is already a reality. What is missing is a set of guidelines to insure that financing is legal, fair, and open to public scrutiny.

As Mr. Landauer points out, the public pays both open and hidden campaign and election costs at innumerable points in the process. It pays directly for election machinery, it pays through lost tax revenue for the IRS sponsored dodge on $3,000 political gifts, it pays through higher prices of products levied to recoup the heavy business giving that exists despite our present campaign laws, and, of course, it pays the salaries of incumbents and their staffs while they campaign for office.

I know that that last point raises the very sensitive question of whether public financing of elections is an inherently antiincumbent proposition. I do not share the view of some that it is somehow horribly wrong for a man who has spent his life in public service to be concerned that his ability to continue in public service not be suddenly and severely jeopardized. But I also reject the view that public financing is inherently antiincumbent in its effect on election. Public financing can be proincumbent, or antiincumbent, or it can be neutral.

What is important is that public confidence in our entire electoral process stands at an all time low. I feel that I personally have both an obligation to my country and a purely selfish, personal interest in erasing what has become almost an automatic assumption that politicians are men of questionable integrity at best, or crooks at worst. I think that all Members of Congress would do well to balance any supposed antiincumbent bias in public finance against the competing, well proven axiom that when the voters become generally dis-

gusted with what they see going on they vote indiscriminately to turn the rascals out.

Public financing should be examined carefully and quickly by this body. Legislation should be prepared which will sharply limit large private campaign donations, which will replace the loss of these funds with politically neutral public money, and which will make this replacement through means that neither favor nor discriminate against either challengers or incumbents.

Obviously writing such legislation will not be easy. But difficulty is not an excuse for inaction, it is a recommendation for action. The job will be a tough one. It will have fundamental effects on our electoral process. But it is a job which must be undertaken, and it should be undertaken now.

EXHIBIT 1

[From the Wall Street Journal, May 14, 1973]

ANOTHER VIEW OF ELECTION SPENDING

(By Jerry Landauer)

WASHINGTON.—My colleague, Arlen J. Large, treated readers of this page last week to an array of entertaining arguments against using tax money to underwrite the campaigns of politicians seeking office. He doesn't want the government to subsidize the lies that campaigners tell. He fears the whiff of tax dollars will lure more kooky candidates out of the woodwork, and he opposes government intrusion into yet another arena traditionally reserved for private, voluntary effort.

All these objections are valid, but Mr. Large has mustered them in defense of a myth. In fact, taxpayers at all levels of government already are subsidizing election campaigns, and as campaign costs mount, the government subsidies will grow apace. The issue no longer is whether government should pay. The real question is how—furtively, as at present, or openly and with some semblance of fair play?

Actually, the practice of taxing citizens to pay for election costs is so deeply entrenched that few people even bother to think about it anymore. Local governments print ballots, buy voting machines and provide election officials; in the 19th Century the costs were paid by the political parties. In all but a few Southern states taxpayers today pick up the cost of conducting party primaries, including those held to choose party officials down to the level of ward leader.

If it is fitting for governments to pay the cost of electing ward heelers, why isn't it proper to subsidize, say, a presidential candidate appealing for votes on TV?

Another question: Isn't there something inequitable about local, state and federal governments continuing to pay the salaries of incumbents while they're out running for reelection? Mr. Large doesn't want the government in the business of bankrolling campaign gimmickry, yet through this method alone millions of tax dollars flow to politicians engaging in just that.

But this is only one of the hidden subsidies politicians enjoy. The federal treasury underwrites the cost of sending vast volumes of franked congressional mail to constituents at election time; even the envelopes are provided at public expense. A Congressman enjoys free office space, free telephones and free broadcast facilities. And if he happens to be a committee chairman he can tap committee staffers as well as his own for campaign chores.

IRS ENCOURAGEMENT

Nor does it end here. More important thai these relatively direct taxpayer subsidies are the many indirect subsidies which the Internal Revenue Service not only tolerates, but encourages. Two of them alone probably cost the treasury $10 million in lost revenues last year.

The first subsidy stems from a curious IRS interpretation of just who it is who benefits from a political contribution. To the average man on the street, the answer might seem obvious: It is the candidate who benefits, of course. Not so, the IRS ruled in June 1972. The real beneficiary, the agency decided, is the candidate's fund-raising committee. This ruling allows political contributors to donate big money without paying any federal gift tax on their gifts.

An example will indicate what this ruling means in practice. Suppose you have $99,000 you want to give away. If you give it, say, to your brother-in-law, you may have to pay gift taxes on as much as $96,000 of your donation. The tax generally applies to gifts in excess of $3,000 a year to any one recipient, after the donor has exhausted a $30,000 lifetime exemption. Nor can you get around the law by setting up 33 trusts of $3,000 each with your brother-in-law as beneficiary; the Supreme Court ruled out that dodge 30 years ago.

But suppose your brother-in-law is running for Congress. Then, thanks to the IRS ruling, you can merely give $3,000 apiece to each of 33 transparently sham committees fund-raising for him. Your brother-in-law benefits from the $99,000; you don't pay a cent in taxes.

A second subsidy occurs because the IRS allows fund-raising committees to accept appreciated stock, sell it and pocket the profits, without paying capital gains taxes. During the campaign last year this newspaper detailed how Republican fund-raisers, in particular, were using this device. In October, the IRS said it would have to "consider" the issue. Six months later the agency is still considering; the old rule still stands.

The irony of this is that the IRS is treating political parties as if they were tax-exempt charities—while sternly denying tax exemption to real charities that might want to engage in lobbying or politics on the side.

Indeed, in IRS eyes, politicians seem to occupy a higher status than churchmen. Religious groups must at least file statements with the IRS, even if they don't pay actual taxes. Political organizations need not file returns on their money-gathering operations; their special treatment is not enshrined in law, but is simply "a matter of history," or custom, the IRS explains.

Tax favoritism is only one of the indirect ways by which all of us subsidize campaign costs. We also pay—involuntarily—in our role as consumers, for by buying goods which have been marked up to recoup the political dollars which businessmen everywhere are expected to contribute.

Under federal law, of course, corporations (and unions) can't donate to campaigns for President, Senator or Representative. But there are ways around the law: A corporation, to cite just one example, can give a trusted officer a phony "raise" or "bonus," which he then passes on to a political candidate. In a dozen or so states, moreover, corporations legally can give to candidates for state or local office, and some other states merely restrict the giving rights of regulated industries such as insurance companies or utilities.

These corporate executives, of course, don't consult the political predilections of shareholders before donating tax-deductible dollars for partisan purposes. Yet now, when it's proposed to open the U.S. Treasury in a bipartisan way to finance election campaigns, some critics exhibit liberation qualms about the lack of "personal veto" by those who would pay the bill.

It's argued that stern enforcement of existing law will do much to eliminate campaign shenanigans. But this trust seems misplaced. The 1971 Federal Election Campaign Act may help, by requiring full disclosure of who is giving and who is getting political dollars. But tough enforcement of this and other election laws requires attributes of sainthood rarely found at the topmost rungs of government. "'It's simply unreasonable to expect an attorney general to proceed against the election committee of his boss, the President," says Philip S. Hughes, who heads the Office of Federal Elections in the General Accounting Office.

Being political men, attorneys general know there simply aren't enough disinterested donors to come up with the $400 million or so spent by candidates for all elective offices last year. Hence the Justice Department traditionally views strings-attached campaign gifts more tolerantly than if the money were being proffered to some government official for personal use.

For example, outgoing Attorney General Richard Kleindienst would immediately order the arrest of anybody offering him money to fix a case. In 1970, however, a Senate aide Robert Carson offered him $100,000 from a "friend in trouble," not for Mr. Kleindienst's pocket but for Republican coffers; Mr. Kleindienst rejected the offer but didn't recognize it as a bribe until the FBI alerted him to an ongoing investigation of Carson, who was subsequently convicted.

JUSTICE DEPARTMENT PERMISSIVENESS

Justice Department permissiveness extends especially to businessmen making illegal campaign gifts. Former Internal Revenue Commissioner Randolph Thrower spoke in 1969 of conspiracies "so flagrant that businessmen invited to a group meeting are openly briefed" about plans to contribute expenses. Thereafter the Justice Department brought 18 criminal actions, not against executives or fund-raisers but against corporations; without exception, the companies merely paid, from money belonging to shareholders, a few thousand dollars in fines.

Despite the many devious fund-raising tactics employed last year, it's suggested that this kind of large-scale cheating is unlikely to reoccur. The 1971 act didn't take effect until April 7, 1972, and this was a one-shot inducement for corner-cutting, it is argued.

Maybe that's right. Yet long after the April 7 deadline Nixon committees in many places were still assigning quotas for corporate gifts ("efforts by corporations to help in the campaign have been surprisingly poor," the President's Pittsburgh reelection committee complained on Sept. 5). And just before Election Day the Seafarers Union borrowed $100,000 from an obliging New York bank for transfer to the Nixon campaign; GOP collectors neglected to disclose the gift until last January.

Considering the returns from each invested dollar, the donations from unions and other muscular interests aren't surprising. Two maritime unions alone raised $622,000 for campaign gifts last year. Result: No more than a handful of Congressmen now oppose spending $500 million to "save" a merchant marine that has shriveled by 1,600 ships during the last decade, while gobbling up $3 billion in government subsidies.

Four milk cooperatives amassed a $3 million war chest last year, after generating political pressures strong enough to force an increase in milk price supports. Result: The government is paying perhaps $100 million more to support dairy prices, and consumers are paying more for dairy products.

It does seem ironic that seamen's unions and dairy co-ops are raising campaign cash through the kind of automatic "check off" that some deem unworkable or ignoble for the ordinary taxpayer. Dairy farmers that is, gladly let their co-ops deduct a few cents

from every milk check. Seamen let their union deduct $10 a month for transfer to politicians.

Should we publicly finance our election campaigns? Don't kid yourself. We already do—through direct subsidies to incumbents, through tax subsidies for big contributors, through dodges and loopholes and regulations the average taxpayer hasn't the time to try to understand. The issue is whether we can do it honestly.

[From the Wall Street Journal, May 10, 1973]

HOW SHOULD WE FINANCE ELECTIONS?

(By Arlen J. Large)

WASHINGTON.—One of the many unfortunate by-products of the Watergate scandal is the increased demand for public financing of political election campaigns.

For many decent people, the ugliness of safes and suitcases bulging with cash practically shaken down from big operators wanting government favors is the clincher. Their answer is to run elections with public funds, freeing contributors from implied shakedowns and candidates from the big-money influence of pressure groups. And with a tight limit on the public money available, such luxuries as a private army of spies and saboteurs might seem less cost-effective for politicians with no other scruples.

So argues freshman Democratic Sen. James Abourezk of South Dakota. A new law providing public money for federal elections, he says, "is needed immediately to prevent another Watergate from ever happening again in this nation."

But is it really? Giving tax money to people seeking office has many drawbacks, and these should be carefully pondered before the public till is opened. There are mechanical problems, such as regulating the continued use of money privately obtained on the side. There is the problem of sending Treasury checks to ego-trippers just running for office as an exciting pastime, without much thought of winning or serving.

Above all, there is the basic unwisdom of enshrining as a legitimate function of government that artificial process known to politicians as a "campaign." Campaigns have the sole purpose of manipulating people to obtain their votes, which is a questionable service for the government to bankroll. The public would subsidize not only the lies told during campaigns, but all the inane paraphernalia that infuse them with color but little substance.

During his unsuccessful 1970 Senate race in Illinois, the late Ralph Smith, a Republican, distributed a kid's coloring book that capsuled his service in the legislature and other biographical highlights. ("When Ralph was 8-years-old, he played baseball, marbles, and he liked to eat ice cream. He still likes baseball and ice cream.") It was a well-executed, charming campaign gimmick, a perfectly legitimate way to make a memorable impression on a citizen. Whether that citizen should have to pay for such fluff against his will is another matter.

From the standpoint of the practicing politician, however, almost anything would be better than the present system of private fund-raising. Many find it demeaning and humiliating to face a roomful of potential contributors, and say what they want to hear about oil depletion, the glories of the wilderness, Phantom jets for Israel, the minimum wage, textile import quotas, or whatever. A Congressman who disappoints a big donor by voting "wrong" faces not just the denial of money at the next election, but retaliation in the form of a well-financed primary opponent.

SENATOR HART'S BILL

Emancipation from all that is seen to lie in the equal access to public money. Sen. Philip Hart, the thoughtful, unabrasive liberal Democrat from Michigan, is the main sponsor of a bill for the public financing of Senate and House elections.

Sen. Hart's bill is intended as a companion to previous laws representing the first limited steps toward public financing of elections. These provide for small tax credits or deductions for voluntary political donations by individuals, plus the new form allowing the taxpayer to earmark $1 of his federal payment for use by national parties in the 1976 presidential election.

The $1 taxpayer's public-spirited "checkoff" ultimately may turn out to be a futile act, because Congress before 1976 must pass a new bill actually appropriating an amount equal to the taxpayer checkoffs, and this bill could be cut, defeated or vetoed. At any rate, the plan was a big dud in its first year of operation, with less than 3% of this spring's tax returns accompanied by a checkoff form.

Whatever its failings, the checkoff plan at least gives the individual taxpayer the option of denying his dollar of public money to the politicians. Sen. Hart's plan for public financing of congressional campaigns allows no such personal veto; Treasury money would be paid out automatically to as many qualified candidates as asked for it. Any candidate could refuse the public money and rely on private contributions, but he'd be handicapped by being labeled a captive of the fat cats.

The public financing of congressional campaigns would have two side-effects, not necessarily bad. It would spell defeat for more incumbents, who now have a great private fund-raising advantage over unknown challengers back home. Sen. Hart's proposed 10-cents-per-voter subsidy for primary elections works out, for example, to $1.4 million for each statewide candidate in California, guaranteeing a sitting Senator a herd of rivals in his own party as well-fixed as he. That independently available source of Treasury money also would further weaken the declining influence of organized political parties, for a rising young politician would be able to ignore the bosses and strike for glory on his own.

To preserve some role for traditional party funding in general elections, Sen. Hart would allow a candidate to accept limited donations from national and state party headquarters, and even to collect some small gifts from individuals. These amounts are intended to be marginal compared with the assured hunk of Treasury money, but this is the area where temptations would arise to outspend an opponent. A special federal board would be set up to catch cheaters.

All proposals for public financing of campaigns must deal with the problem of nonserious kooks lured into a contest by the whiff of free money. Because the government should never have the power to decide who's not serious or who's a kook, the weeding-out safeguards must be automatic and uniform. Sen. Hart's plant would require all would-be candidates to put up a "security deposit" equal to one-fifth of the expected federal subsidy. If on election day a goof-off candidate got less than 10% of the total vote, he'd forfeit his deposit; if less than 5%, he'd not only be made to give up the deposit but also pay back all the federal campaign money given to him.

But rules would have to be piled on rules to prevent a candidate from entering the free-money game by getting his security deposit from a few rich backers. No individual or organization would be allowed to put up more than $250.

Possibly through some such maze of rules a fair system could be devised. But the fundamental question remains: Do the expenses of electing one man to office instead of another have a legitimate call on the whole citizenry's money?

That depends mainly on what the taxpayers would be buying. "Information" presumably would be the basic commodity: a candidate's opinions on various public problems, what he looks and sounds like, his facility with words.

Not all information that would be helpful to a voter is generated during the formal canvassing season known as the campaign, the period for which subsidies are proposed. During the long stretches between campaigns, incumbent in Congress amass voting records, do and say things that are reported as news, send out mail and newsletters and return home for supposedly nonpartisan speeches to the garden clubs. Because most of this informational activity already is publicly financed, a special campaign-season subsidy wouldn't buy much extra help for the voters in judging incumbents.

Challengers would benefit more, by using the subsidies in traditional ways to promote the recognition of their names. Even so, campaign-generated information "is only one of many variables affecting elections," says Ralph Winter, a Yale Law School professor, in a treatise on the subject. The incumbent's age, the state of the economy, deep changes in public sentiment all can prove even more decisive.

Anyway, "information" is rather a strong word for some of the mindless sloganeering and televised imagery that the taxpayers are being asked to underwrite.

"He Really Gets Things Done." "You Can Believe Adlai Stevenson." "Bill Brock Believes." "President Muskie (Don't You Feel Better Already?)" "Bob Barry is a Fighter Who Takes on the Tough Ones." From the pictures flooding the nation at campaign time, one would conclude that Congressmen do nothing but stride confidently across the Capitol plaza with a briefcase, or wander lonely beaches, jacket over the shoulder, a thoughtful gaze on the horizon.

A MUSHROOMING INDUSTRY

In recent years a whole industry of campaign advertising specialists has mushroomed to advise candidates on how to spend their privately collected money on this kind of material. With an assured supply of financing from public tax funds, the campaign consultant would become just one more parasitic operator who, like a commercial income tax preparer, thrives merely because the government exists. Public financing of elections in Puerto Rico already has hired flocks of campaign experts down from the mainland.

For all its foolishness, the "information" that's broadcast and printed during campaigns is regulated only by the laws of libel and a candidate's judgment of how much mudslinging the public will tolerate. If politicians' attacks on each other ever become an official cost of government, Congress would be increasingly tempted to legislate standards of fair campaign comment. Knowledge that they were financing Republican propaganda would be intolerable for many Democratic taxpayers, and vice versa, but making subsidized candidates obey "fairness" guidelines would be equally intolerable, and probably unconstitutional.

At this point the inevitable question arises: "Well, do you want ITT (or the Teamsters, or United Auto Workers) to buy the next President?"

That risk obviously needs to be diminished, in light of the revelations of recent years, but there's not yet an obvious need to go to the extreme of taxing people to pay for the antics of barnstorming politicians, or adding their expenses to the national debt. At least that step shouldn't be taken before trying sterner enforcement of existing law.

The 1971 Federal Election Campaign Act is based on the assumption that mere public disclosure of political contributions is a deterrent to moneybag abuses. The deterrent

stems not just from press and public curiosity about who gave, and how much. A list of a candidate's contributors in the hands of his opponent lends itself, bluntly speaking, to pretty effective demagoguery.

It's true that the 1971 law didn't prevent the ugly mess we have now. But much of the problem can be traced to the attempts last year by both donors and solicitors to shuffle huge sums around before the April 7 start of the disclosure rules. That one-shot inducement for corner-cutting has vanished. Also, people haven't started going to jail yet for the financial violations related to Watergate and other 1972 campaign didos. Watergate is ruining reputations right and left, a fate which ought to scare other big operators into better future behavior.

A CATHARSIS

Some politicians hope the whole Watergate story will be something of a catharsis for the traditional system of campaign giving. "By exposing it we can use this case to dispose of these practices once and for all," says Republican Sen. Charles Percy of Illinois. The Senate's special Watergate investigating committee is specifically charged with identifying loopholes in existing election laws and recommending changes.

Establishment of a six-member federal elections commission is being proposed by Senate GOP Leader Hugh Scott of Pennsylvania to replace the congressional agencies which now monitor political financing. If they find something wrong, the case would have to be referred to the Justice Department for prosecution, which so far has been flabby. The proposed commission would have power to launch its own court action against violators.

Tightening the law where possible and creating yet another enforcement bureaucracy would not provide the whole answer to the buying and selling of political influence through campaign giving. But it would be better than anything accomplished before, and it could head off the wrong answer of letting politicians reach the public trough before they're elected to anything.

EXHIBIT 2

RESOLUTION OFFERED BY SENATOR ABOUREZK BEFORE THE SENATE DEMOCRATIC CONFERENCE

Whereas, public confidence in the integrity of the Federal government has been undermined by the corrupting influence of large campaign contributions in recent months, and

Whereas, to maintain the confidence in the integrity of free and open elections is of paramount concern to the preservation of democracy and the continuing orderly operation of government, and

Whereas, the Congress has committed itself to positive and constructive reform of the electoral process by enactment of the Federal Elections Campaign Act of 1971, tax credits, and the tax check-off system for financing of Presidential elections,

Resolved, that the Democratic Conference calls for the prompt scheduling of hearings by appropriate committees on proposals to provide for public financing of Federal elections and favors Senate passage of legislation embodying the public financing concept and an end to the corrupting influence of large campaign contributions in Federal elections at the earliest possible date.

Resolved further, that the Democratic Conference supports the establishment of an independent prosecutor to enforce impartially and effectively all Federal campaign financing laws.

ELDER STATESMAN SPEAKS OUT ON WATERGATE

Mr. PEARSON. Mr. President, the April 20 issue of the New York Times carried an article by Alf M. Landon dealing generally with the Watergate situation. Mr. Landon's comments and observations are very perceptive and cogent and I ask unanimous consent that this article by the Republican Party's senior statesman be printed in the RECORD.

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

ELDER STATESMAN SPEAKS OUT

(By Alf M. Landon)

TOPEKA, KANS.—The ramifications of the Watergate criminal conspiracy are far-reaching and deep with scattered reputations and distressed families.

The great constitutional questions between the executive and legislative functions involved, which have existed since the birth of our great and beloved Republic, have once again been solved by mutual agreement without resorting to a Supreme Court decision.

The constitutional question is not a simple confrontation between the Congress and the President on the matter of executive privileged communications.

It would be impossible to conduct an efficient Administration if either the President or his subordinates were subject to the beck and call of Congressional committees. Every Chief Executive in our history has rightfully asserted that position.

On the other hand, the right of investigation by the Congress is a precious one and must be maintained. The President and Senator Sam Ervin, chairman of the Senate committee investigating Watergate, have successfully linked these two together by arranging for the voluntary appearance of any of the executive staff before the Senate committee. It is simply reaching a satisfactory accommodation which has often occurred in the past on this ticklish question between Presidents and Congressional committees to avoid the long delay of settling a constitutional question in the courts. I think the same questions have arisen in relations between governors and their state legislatures.

In 1964 when Senator Fulbright, after the Manila conference in which President Johnson assumed the guardianship of all Asia, persistently attempted to get Secretary of State Rusk to appear before the Senate Foreign Relations Committee to answer questions as to the extent of our foreign commitments all over the world, he declined. It was finally settled by an informal agreement limiting the scope of the committee's questions such as is in the case of Watergate.

There are, of course, grave legal questions involved. What right does anyone have to "bug" someone else's property by breaking and entering the same? That's just like going into someone's office when he's out—searching his files to get valuable information in a business affair or to embarrass him in some other way. That's simply a matter of theft and invasion of privacy, which was the charge in the Watergate trial.

President Nixon has properly referred the Watergate skulduggery to the judicial process.

As far as the failure of the President to speak out more definitely is concerned, he could not make statements on a subject matter which was involved in grand jury proceedings. He could not say anything because he would be rightfuly criticized for influencing pending decisions in the judicial process. Senator Ervin, former trial judge and justice of the Supreme Court in North Carolina, has recognized the duty of the Investigating committee to carefully guard and maintain at all hazards the precious right of any individual concerned to a fair trial and his day in court.

Public understanding of the fundamental threat to our democratic processes, which concerns us all in the shocking Watergate arrangements by a handful of President appointees, was further complicated by glib reporting evaluating our President's positions relative to Congressional investigations as grabbing for more power.

Over-all, there is the growing righteous indignation of the public at sordid political usage. Illegal Watergate activities are exploding all over the place. It was lightly referred to as a "caper" by cynical Washington news media and in some other quarters as the way of politicians. Common sense rejects that kind of stuff and nonsense.

The inherent moral questions are getting worse and worse and worse. The question of character is coming in more and more all the time.

We have the then Attorney General of the United States, with more power than J. Edgar Hoover had in his prime, finally admitting that he participated in three conferences where the bugging of Democratic National Committee headquarters in the Watergate was discussed. He could have flatly put a stop to it by simply saying, in the first conference, if you fellows ever go ahead with your proposed stupid, immoral and illegal plans. I'll throw the book at you, either as crooks or as "nuts."

Instead, John Mitchell apparently pussyfooted around with two more conferences. He knew who was involved when it happened. He should have had them prosecuted the next day. The astounding contradictions in his own statements have shaken and alarmed our citizenry. At the least an Attorney General of the United States has lowered the ethical standards of his high position and his profession by his conduct, betraying the confidence of the President of the United States.

Also, it can be said that by the prestige of his high office, in even personally participating in three meetings and listening to the discussion and planning of a criminal act, he gave the color of safe conduct to others directly or indirectly familiar with it.

John Mitchell's motives in this high scandal are a mystery. His actions uncovered so far by grand jury proceedings are not. His record will haunt him as long as he lives and his reputation in history thereafter. At least the due processes of the law promptly started and properly by the positive direction of the President are involving the higher-ups. That is healthy for both political parties and the public, for at the conclusion of the jury trials the mark of the Watergate case will be in the verdict of the American conscience. The real damage is the diminished public confidence in, and respect for, our highest public office in the United States of America.

There is not the slightest indication that the President is involved. There is no evidence that he knew anything of this illegal going-on in campaign planning.

History reveals that was the experience of other Presidents of our country with the constant increase of heavy and complex burdens, political as well as governmental, of that office. It should be recognized by objective-minded folks that a President cannot be held responsible for campaign planning as he can, and is, for his national policies. There are simply not enough hours in the day for that. There are hardly enough hours for his main job of running the Government.

CUTBACKS IN HEALTH RESEARCH PROGRAMS

Mr. EAGLETON. Mr. President, the administration's budget recommendations for the coming fiscal year for health programs results in reductions in many activities conducted by the Na-

tional Institutes of Health. Moreover, the administration proposes to concentrate the majority of health research resources on cancer and heart research, at the expense of other vitally needed programs.

Although I believe that it is necessary to substantially increase funding in these two areas—the major health concern and the major cause of death in this country—I do not believe that the other areas of biomedical research should be so severely curtailed.

One instance of the impact of this lack of funding for biomedical research has been brought to my attention by Dr. Robert E. Sparks, a faculty member at Washington University in St. Louis. Dr. Sparks very ably points to the need to continue and, where possible, expand research in kidney disease. Under H.R. 1, passed last Congress, persons covered by social security and their dependents who are in need of kidney transplantation or dialysis are eligible for medicare payments. It is estimated that the cost of the amendment will eventually run close to one-half billion dollars. In my judgment, this is not the time to reduce funds for research into kidney disease, as the administration now proposes. Better and less expensive methods of treatment must be found so that this cost does not continue to spiral. It cannot be done without adequate Federal support.

Such examples of the random and eccentric nature of the administration's budget cutting make it difficult for me to regard its budget proposal as responsible and responsive to the needs of our country.

Mr. President, I express my concern with Dr. Sparks and ask unanimous consent that his letter be printed at the end of my statement.

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

WASHINGTON UNIVERSITY,
St. Louis, Mo., April 16, 1973.

Senator THOMAS EAGLETON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR EAGLETON: I am a member of the faculty of Washington University in St. Louis. I am writing to you, as a member of the Labor-HEW subcommittee of the Senate, to point out a relationship between two pieces of legislation which most of your Senate colleagues may not be aware of, and which I believe to be of importance.

I refer to the relationship between the FY '74 NIH appropriations on which you will soon be starting hearings, and the dialysis and transplantation amendment to HR 1, which went into effect April 1, and for which payments will begin from Social Security on July 1. My concern stems from the fact that I have been a consultant or a member of the Advisory Committee to the Artificial Kidney/Chronic Uremia Program of the National Institute of Arthritis, Metabolism and Digestive Diseases of the National Institutes of Health since 1965. In addition I have conducted research since 1964 in areas relevant to the artificial kidney.

My concern is with the eventual cost of the HR 1 amendment and the implications this should have for the NIH appropriations. The cost of HR 1 during the first year will be large enough, but the cost in 3–4 years will be staggering. Consider that probably 30,000 people will be on dialysis when the program stabilizes, and that the average cost for each patient will be about $10,000 on the average. (The cost of dialysis at home is approximately $5,000 and in a kidney center the cost is about $15,000). This means the cost to the government for dialysis treatments will be about $300,000,000 per year. In addition the amendment commits Social Security to pay for all the patients' medical expenses. Since many of the people with severe kidney disease also have other medical problems it is not unrealistic to place the eventual cost of the program at ½ billion dollars a year.

It is important to note that the cost of this amendment will be in the same league as the entire expenditures of the National Heart and Lung Institute or the National Cancer Institute, the two largest institutes in the NIH!

The critical question at this time is how much research funding is being allocated to the important problem of lowering this cost and making the treatment more effective. The answer is that the only research effort backing up this enormous program on which the nation has embarked is the small Artificial Kidney/Chronic Uremia Program. This program has had to fight for its life in the last three years and this year, just when it is assuming the back-up research role for an expenditure nearly as large as that for cancer, it has been asked to take a cut of 30%, down to only $3.5 million.

This seems to me to be the wrong direction considering that the HR 1 amendment is the first major governmental program to assume responsibility for all direct payments for a major disease. It is most important that it be conducted thoughtfully and with careful planning. It appears mandatory that part of this planning must include an augmented research program to increase the efficiency of treatment.

I would urge that this relationship between the HR 1 cost and the research budget of the Artificial Kidney/Chronic Uremia program be brought out clearly in the committee hearings and, if possible, be mirrored in the appropriations. Since two agencies are involved, it is likely that the tie-in will not be accomplished unless it is spelled out by Congress.

This letter is not (probably unfortunately) part of an organized campaign to inform legislators of the tie-in between HR 1 and the NIH appropriations. In view of the magnitude of governmental expenditure on the HR 1 amendment, I hope a high priority will be given in the hearings to providing the Artificial Kidney/Chronic Uremia Program with the funds to properly back-up this expenditure and study how it may be lowered in the future.

I might add that one of the few health matters on which the President has made supportive statements has been the artificial kidney. Hence there is some hope that, if a particular provision in this area were written into the appropriations, the President might be inclined favorably toward it.

Thank you for your attention to this problem. If, on your next trip to St. Louis, you would like to speak to the medical researchers in the area of hemodialysis, or visit the Renal Division and the Chromalloy-American Kidney Center at Barnes Hospital, I would be pleased to make the arrangements.

Sincerely yours,

ROBERT E. SPARKS,
Professor of Chemical Engineering.

CONFIRMATION OF DR. ARTHUR S. FLEMMING

Mr. BEALL. Mr. President, I am pleased that the Senate has given the nomination of Dr. Arthur S. Flemming to serve as Commissioner on Aging its prompt and favorable consideration. In recent weeks, significant progress has been made toward improving the lives of older Americans. The enactment of the Older Americans Comprehensive Services Act of 1973 significantly strengthened and upgraded the Administration on Aging. By confirming Dr. Flemming, the Senate has placed a man uniquely qualified to lead this newly strengthened agency.

I issued a brief statement during the Labor and Public Welfare Committee's consideration of Dr. Flemming's nomination, and I ask unanimous consent that that statement plus Dr. Flemming's biographical sketch be printed in the RECORD at the conclusion of my remarks.

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

STATEMENT BY SENATOR J. GLENN BEALL, JR., REGARDING THE NOMINATION OF DR. ARTHUR S. FLEMMING

One could hardly comment on the progress we have made in recent years in efforts to understand and meet the needs of the elderly without mentioning the role of Dr. Arthur S. Flemming. Dr. Flemming is a distinguished academician, religious leader and public servant who has served his nation in various capacities during the past four decades.

As Secretary of Health, Education, and Welfare from 1958 to 1961, Dr. Flemming laid the groundwork for the increased role of the Federal Government in the field of aging. The first White House Conference on Aging in 1961 was an outgrowth of his efforts. This conference set the stage for the development of the Administration on Aging and other programs designed to meet the special needs of Senior Citizens.

In 1971, President Nixon called upon Dr. Flemming to assume the chairmanship of the second White House Conference on Aging which was held in December of that year. Dr. Flemming brought together thousands of delegates and experts from across the nation. The momentum generated by this conference has served to bring the problems of our senior citizens to the attention of all of our people. Legislation such as the Nutrition Program, the Older Americans Comprehensive Services Act of 1973, the expansion of Socal Security coverage, and the 20% Social Security increase enacted last year all reflect the Congressional response to The White House Conference of 1971.

Since The White House Conference, Doctor Flemming has served as Special Consultant to the President on Aging, a position that has enabled him to advocate the cause of senior citizens at the very highest levels of our government. In addition, Doctor Flemming has devoted his considerable energies to the task of coordinating federal programs in the field of aging.

I am especially pleased that the President has nominated Arthur Flemming to serve as Commissioner on Aging, and I understand he will be principal advisor on matters affecting the aging in all domestic programs. A strong Commissioner on Aging presiding over a strengthened Administration on Aging will make a significant contribution to the welfare of senior citizens. I look forward to working with Doctor Flemming during his tenure as Commissioner on Aging.

BIOGRAPHICAL STATEMENT OF ARTHUR SHERWOOD FLEMMING

Born in Kingston, New York, June 12, 1905.

ACADEMIC BACKGROUND

A.B., Ohio Wesleyan University, 1927; M.A., American University, 1928; J.D., George Washington University, 1933.

Honorary degrees from a number of colleges and universities.

PROFESSIONAL ACADEMIC EXPERIENCE

Instructor of Government, American University, 1927–30.

Director, School of Public Affairs, American University, 1934–39.

Executive Officer, American University, 1938–39.

President, Ohio Wesleyan University, 1948–53, and 1957–58.

President, University of Oregon, 1961–68.

President, Macalester College, 1968–71.

OTHER PROFESSIONAL EXPERIENCE

Editorial Staff, U.S. Daily (Now U.S. News and World Report), 1930–34.

Member, U.S. Civil Service Commission, 1939–48.

Member, War Manpower Commission, 1942–45 (Chairman, Labor-Management Manpower Policy Committee of the Commission).

Director, Office of Defense Mobilization, 1953–57 (Served during this period as member of National Security Council and by invitation of the President, participated in meetings of the Cabinet).

Secretary, Health, Education and Welfare, 1958–61.

Chairman, White House Conference on Aging, 1971–

Special Consultant to the President on Aging, 1972–

OTHER SERVICE

Member of first and second Hoover Commissions on organization of Executive Branch of Government.

Member, President Eisenhower's Advisory Committee on Government Organization, 1953–61.

Member, International Civil Service Advisory Board, 1960–64.

Chairman, National Advisory Committee of Upward Bound, 1965–

Member, National Advisory Committee of Peace Corps, 1961–68.

Member, President's Committee on Labor-Management Policy, 1965–68.

Chairman, Commission on Political Activity of Government Personnel, 1966–67.

Chairman, Social Security Advisory Council, 1969–71.

President, Oregon Council of Churches, 1964–66.

President, National Council of Churches of Christ in America, 1966–69.

President, National Council on Social Welfare, 1968–69.

Chairman, American Council on Education, 1969–70.

PERSONAL

Married, Bernice Virginia Moler, December 14, 1934.

Children—Elizabeth Ann (Mrs. George Speese), Susan Harriett (Mrs. John Parker), Harry Sherwood, Arthur Henry and Thomas Madison (twins).

Member—Methodist Church.

Republican.

CONGRESS AND CAMBODIA

Mr. CHURCH. Mr. President, in matters of war and peace, Congress is a constitutional coequal with the executive branch. This fact is being made loud and clear by recent actions taken in the House of Representatives and within two separate Senate Committees regarding Cambodia.

The advice offered by the Christian Science Monitor, a highly respected national newspaper that over the last decade has lined up behind the President on these matters, is pertinent and should be heeded.

The Monitor editorialized;

(I)t behooves Mr. Nixon to be sensitive to the Congressional mood, to consider the humanitarian as well as military factors, and to avoid bringing on the "constitutional crisis" of which Mr. Mansfield warns.

I ask unanimous consent that the May 16 lead editorial in the Christian Science Monitor and a feature article by the Monitor's Richard L. Strout be printed in the RECORD.

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

BOMBING IN CAMBODIA

Senate majority leader Mansfield warns of a "true constitutional crisis" if the President ignores expected legislation to end military reinvolvement in Indochina without "specific authorization by Congress."

Such legislation has been approved by the Senate Foreign Relations Committee in the form of the Case-Church amendment. Also on the way through Senate committee processes is approval of House legislation against continued bombing in Cambodia, with the Senate extending the ban to Laos as well.

If Dr. Kissinger's forthcoming talks with North Vietnam's Le Duc Tho have concrete results, the legislation might be affected. But at the moment it appears that the congressional trend is irreversible. A revitalized Congress is seeking to restore the the balance of government by asserting its constitutional power over making and financing war. Supporters of the new legislation want to prevent a repetition of congressional acquiescence in administration military steps of the sort they feel could start the whole Indo-China cycle over again.

There are potential dangers in limiting executive flexibility in military matters, especially in Laos, where the administration sees the presence of an illegal North Vietnamese Army as requiring U.S. support of thousands of Thai mercenaries. Elsewhere in the world there may be occasions where the President might need to move fast.

But with U.S. troops and POWs out of Indo-China, it is hard to plead such an urgent national interest that the President could not take time to seek congressional approval for new or continued bombing there. It is unacceptable for the administration to threaten to continue to bomb even if Congress cuts off requested funds.

Rather it behooves Mr. Nixon to be sensitive to the congressional, be sensitive to the humanitarian as well as military factors, and to avoid bringing on the "constitutional crisis" of which Mr. Mansfield warns.

NIXON-CONGRESS ASIAN RIFT TEST OF NEW POWER BALANCE

(By Richard L. Strout)

WASHINGTON.—Congress tightens pressure on President Nixon over Cambodia, and the upshot should indicate the changed power lines in Washington.

The Senate Appropriations Committee votes 24 to 0 to cut off all funds for bombing Cambodia or Laos.

Mr. Nixon's prestige is involved on three fronts: Watergate, the economy, and Congress.

Congress now is definitely kicking back at Mr. Nixon over impoundment, executive privilege, and—immediately—curtailment of commitment in Southeast Asia, specifically in Cambodia.

And so, this week, three strands are braided: The start of the Senate Watergate investigation, the meeting of presidential adviser Henry A. Kissinger with Le Duc Tho about Cambodia, and the Senate committee approval, without dissent, of congressional veto of further funds for Cambodia.

Simultaneously a run on the dollar has developed abroad emphasizing, and perhaps enhancing, the power struggle in Washington.

AUTHORITY DILUTED

President Nixon's home-front crisis weakens his authority in international affairs. Simultaneously, it tempts a long-weakened Congress to grab back power.

One aspect is Cambodia.

The big break here came last week when the House of Representatives for the first time since the Indo-China struggle began passed an end-the-war bill 219-188, rejecting funds to continue bombing .

It was a dramatic rebuke to the President. The House has always hitherto supported him in the war.

For the first time the Senate now is following the House lead.

A Senate appropriations committee rejected a Defense Department request for a transfer of Pentagon funds to continue Cambodia bombing, and added Laos to the ban.

The Senate Foreign Relations Committee approved an amendment that went further: cut off funds for all military actions in Indo-China without specific congressional authorization. Sens. Clifford P. Case (R) of New Jersey and Frank Church (D) of Idaho thus launched the New Case-Church amendment.

The full Senate Appropriations Committee adopted an amendment to a supplemental appropriations bill by Sen. Thomas F. Eagleton (D) of Missouri to apply the spending ban to all funds previously voted. His amendment is subject to a point of order from the chair. Senator Eagleton plans to appeal a ruling to a majority vote.

The moves in the Senate on Cambodia considerably widen the House action. Together they would include not only Cambodia but all funds for all military action in Southeast Asia. They would specifically reaffirm the requirement of congressional approval.

Washington finds it hard to believe there will be a showdown with the White House, but it can't be sure; it may be a test of the new balance of power.

Significantly, the House heard familiar pro-war arguments repeated in its debate last week and then rejected them by a 31-vote majority.

THE PRINCIPLES OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, there is at least one statement about the Genocide Convention about which everyone will agree; it has come under exceedingly close scrutiny, both here in the Senate and among the citizenry. This scrutiny is entirely proper. Every treaty which the Senate is called upon to ratify should be carefully examined to insure that our national interests, as well as international order and justice, are upheld.

But the prolonged and redundant nature of our scrutiny of this convention is truly unfortunate. Essentially the same arguments have been made since the convention's introduction. Most of these arguments have been technical, focusing on very small parts of the convention and its language. Again, it is proper that these matters should be scrutinized, but unfortunately the prolongation of nit-picking scrutiny has meant that the larger principles involved have been almost forgotten, at least by those opposed to the convention.

The Genocide Convention is a declaration that the United States and all civilized nations are opposed to mass murder and that all of them will do their share to assure that the horrors of Nazi Germany are not repeated. We are all against genocide. We all abhor the brutal elimination of racial, ethnic, and religious groups. Now we all have a chance to do something about it. To pass up this

chance—as we have for 25 years, would be extremely unfortunate.

The Senate can ratify the Convention on the Prevention and Punishment of the Crime of Genocide. This would be an international commitment to decency and morality entirely consistent with our tradition of concern for the welfare of all. Ratification of this treaty is in keeping with our position as a leader of the free world. Now we can do more than just say that we are opposed to genocide. Now we can take constructive action to prevent the occurrence of the crime of genocide.

Mr. President, the time has come for the Senate to ratify the Genocide Convention.

U.S. CONVERSION TO THE METRIC SYSTEM

Mr. PELL. Mr. President, it has come to my attention, and I believe it will be of interest to the Senate, that Lord Orr-Ewing, chairman of the Metrication Board of Great Britain, has been honored by the U.S. Metric Association and by this association's Rocky Mountain division, directed by Miss Frances J. Laner.

A specially designed sculpture, representing the pioneer spirit of the American West, was presented by Miss Laner to Lord Orr-Ewing as a symbol of the British Metrication Board's own pioneering efforts in metric conversion.

Mr. President, I believe this event serves to emphasize the cooperative spirit between our own country and Great Britain, especially in an area where we can look toward future conversion to the metric system by the United States.

As one who has long believed that conversion to the metric system would be beneficial to our Nation, and as one who has consistently introduced the legislative measures which could achieve this goal, I wish to commend the example Great Britain has set for us with respect to metrication, as well as the recognition of this example by the Metric Association.

According to the association's newsletter, in accepting his award Lord Orr-Ewing said, "For the U.S. Metric Association, a major breakthrough is in sight," and he referred to new legislation which would make this possible, so that the United States could join the 131 countries of the world now committed to the metric system.

I am most hopeful that during this Congress we can—at long last—provide the legislative base to achieve our own future conversion to the metric system.

AMERICAN SUPPORT FOR DELHI COMMUNIQUE

Mr. CHURCH. Mr. President, American newspapers strongly support the political-military detente called for by the April 17 joint communique between the Government of Bangladesh and India. The Baltimore Sun labeled it, "An Opening in South Asia"; the Washington Post called it, "A Hopeful Move."

The New York Times said:

> That elusive light at the end of so many dark tunnels, flashed hopefully . . . when India and Bangladesh finally offered to release, conditionally, about 90,000 Pakistani prisoners of war.

The current contention point between Bangladesh and Pakistan concerns the trial of 195 military men considered to have committed crimes of murder and rape in 1971.

> This is a modest figure in view of the magnitude of the crimes recorded during the nine-month army crackdown in the former Bengali province.

Last week, however, a most disturbing dispatch was received from Islamabad. Reuters reported that the Pakistan Government issued orders for the police to "round up," out of their homes, several hundred Bengalis now living and working in Pakistan. This police-state tactic was presumably taken in retaliation for Dacca's war crimes trial proposal. Such a provocative act counters the Government policy, stated just 2 weeks before, of fully cooperating with "all Bengalis to leave Pakistan if they so wish. Indeed, the Government of Pakistan always sought a humanitarian solution of the problem and has taken several steps consistent with that aim."

I am deeply concerned, as are many of my colleagues, at the report of the "step" of using over 100,000 Bengalis stranded in Pakistan to further fuel the fratricidal fires so long kept burning on the subcontinent. Such action, even though President Bhutto would have had his soldiers and civilians returned without conceding any bargaining positions during forthcoming negotiations, only puts back the old road blocks to reconciliation that the Delhi communique had knocked away.

President Bhutto should, at the very least, try to negotiate one Bengali for one Bihari as he offered to do in his interview with Newsweek on April 4, when he said:

> The status of the Biharis (non-Bangalis) is an atrocious nightmare. We can take some some—one for every Bengali who wants to leave our side.

I ask unanimous consent that editorials from American newspapers backing steps for detente in South Asia, together with the Pakistan Government's statement of April 20, and a Reuters dispatch regarding the present plight of Bengalis in Pakistan, to be printed in the RECORD.

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

[From the New York Times, Apr. 27, 1973]

LIGHT IN SOUTH ASIA

That elusive light at the end of so many dark tunnels flashed hopefully last week in South Asia when India and Bangladesh finally offered to release, conditionally, about 90,000 Pakistani prisoners of war.

The response from Islamabad has been positive although the Pakistanis understandably express "apprehension" over the conditions—the simultaneous repatriation to Pakistan of 260,000 Biharis (non-Bengalis) who have affirmed their allegiance to Pakistan and a desire to leave Bangladesh, and the retention of some prisoners for war-crimes trials in Dacca.

Resettlement of the Biharis will create economic and political problems for the Pakistani Government, which already has an unemployment problem and which is wary of further disrupting the already delicate balance between Sindis and non-Sindis in the Karachi area where most Biharis would be expected to locate. But certainly it would be difficult to deny the birthright of these citizens, many of whom openly sided with government forces during the civil war in the former East Pakistan.

War crimes trials obviously pose a domestic political problem for Mr. Bhutto. But indications from Bangladesh are that the number to be tried will be less than 200, a modest figure in view of the magnitude of the crimes recorded during the nine-month army crackdown in the former Bengali province. Pakistanis, most of whom refuse to acknowledge even that crimes were committed, must recognize that Dacca could never entrust conduct of the trials to Islamabad, as Mr. Bhutto has suggested, specially since the man whom the Bengalis regard as the number one war criminal, General Tikka Khan, is now Pakistan's Army Chief of Staff.

[From the Baltimore Sun, April 22, 1973]

AN OPENING IN SOUTH ASIA

The proposal by India and Bangladesh for an exchange of South Asian peoples, including most of the 90,000 Pakistani war prisoners, has been received with guarded unofficial welcome in Pakistan. The welcome is guarded because there are complications; but even so the offer does contain a major concession that Mr. Bhutto's government cannot, in reason, fail to consider.

Until now, a stumbling block in the way of South Asian settlement has been the requirement that before the prisoners were returned Pakistan must formally recognize Bangladesh. That condition is now removed.

Others, however, remain. The Delhi-Dacca proposal calls upon Pakistan to release some 157,000 Bengalis stranded there after the war of December, 1971. Most of these Pakistan would surely be willing to let go; indeed surely wants to get rid of. Much harder is the question of the approximately 300,000 Muslim Biharis—so-called because the majority of them moved from Bihar in India to what was then East Pakistan, after the partition of the subcontinent in 1947—in Bangladesh.

Some are willing to stay on as citizens of Bangladesh, but most would prefer to go to Pakistan. And Pakistan emphatically does not want them: Muslim though they may be, and even if they supported Pakistan in the war, they are still Bengalis. In today's reduced Pakistan, Bengalis are simply not welcome.

Then there is the further question of Bangladesh's insistence on at least token war-crimes trials, and an apparent disposition in Pakistan to try some of its Bengalis as traitors. Mr. Bhutto may not be able to accept the former, and may for internal political reasons feel he has to insist on the latter.

Yet the opening offered is a real one, and Bhutto, now that the opposing Pakistani parties have brought themselve close enough to reconciliation to approve a constitution, appears to have enhanced his authority. To agree to the offer would take courage and boldness—qualities the Pakistani President has in the past proved himself not to lack. It is encouraging that he has now himself responded—if still guardedly—to the new initiative from the other side.

[From the Washington Post, Apr. 26, 1973]

A HOPEFUL MOVE IN SOUTH ASIA

A major advance in relations on the South Asian subcontinent is promised by the proposal of India and Bangladesh to return the 90,000 Pakistani POWs held for the last 16

months, if Pakistan will 1) release some 200,000 Bengali civilians stranded since the 1971 war and 2), in a kind of exchange, accept back some 200,000 Biharis who have been interned in Bangladesh but do not wish to stay there. By this one stroke, three important groups, each posing a political knot as well as a humanitarian issue, could start their lives anew. What makes the deal considerably more palatable for Pakistan is that Bangladesh no longer demands Pakistani recognition as a condition of POW return. Bangladesh still threatens to retain up to 200 POWs to try as war criminals, but since trials would ensure Bangladesh—a major supplicant for international handouts—major political damage, one hopes that Sheikh Mujib will find a way around them. Besides, Pakistan could hold counter-trials of Bengalis.

To outsiders, it may seem odd, not to say distasteful, that problems can be solved by official decisions to move large communities of people from one country to another, rather than to treat their condition in place. But large scale transfers of people have been a feature of political life in the subcontinent at least since India and Pakistan were born as modern states a quarter-century ago. Moreover, many Americans tend to forget how immense was the movement of people from one country to another in Europe after World War II. The Soviet Union alone, for instance, physically expelled some 10 million people from areas conquered by the Red Army; no one now challenges that astonishing act. The one conspicuous postwar exception to the notion of resolving political issues by moving people around the map is the Mideast, where the claim of some Palestinians to return to their former homes in what now is Israel is still part of the politics of the region.

In the current case of this subcontinent, the three groups of people who would be moved (one composed of military prisoners, two of civilian internees) wish to move. This is what makes the new Indian proposal seemingly such a natural. It was only last July that India and Pakistan agreed, at Simla, to work for "an end to the conflict and confrontation that have hitherto marred relations." Not without strain, they have since moved a significant distance toward their goal—not by American prodding, it might be noted, but in response to their own sense of what is necessary and right.

[From the Evening Star and Daily News, Apr. 21, 1973]

THE BIHARI NETTLE

The offer by India and Bangladesh to return some 90,000 Pakistani prisoners of war in return for the repatriation of more than 100,000 Bengalis stranded in Pakistan and the acceptance by Pakistan of several hundred thousand members of Bangladesh's Bihari minority affords a basis for negotiations which should not be missed.

Of the three groups involved, the Biharis are in a special situation. Pakistan wants its POWs back. Bangladesh needs the 26,000 Bengali soldiers and 15,000 civil servants interned in Pakistan. But nobody wants the Biharis, who supported Pakistan's suppression of the Bangladesh independence movement, and it is questionable if the Biharis are of one mind as to where they would like to seek their future.

Arid West Pakistan would be a completely foreign environment for the Biharis, Moslems from the Indian state of Bihar who fled into East Pakistan when the subcontinent was partitioned in 1947, and Pakistan asserts that the Biharis must be guaranteed a secure future in their adopted land, Bangladesh. Yet hatred against the Biharis in Bangladesh is so strong that in the foreseeable future they cannot hope to live a decent life there. Their ties with Bihar were severed a quarter of a century ago and their future there at best would be uncertain.

It seems to us that all three nations—Bangladesh, Pakistan and India—have an obligation toward the Biharis, and that none of these nations should have to shoulder the burden alone. It would seem fair if India and Pakistan would agree to accept those Biharis who might elect to emigrate and that Sheikh Mujibur Rahman, the prime minister of Bangladesh, should take steps to ensure the physical safety and integration of those who might opt to remain in his country.

The question of trials of Pakistani officers for war crimes—and the threatened counter-trial of Bengalis in Pakistan for sedition—is one which both sides ought to put aside in the interest of peace, if only because nothing like fair trials would be possible in either country in the present atmosphere.

But the Bihari nettle is one which must be grasped, and by all the parties involved.

[From the Christian Science Monitor, April 21, 1973]

INDIA'S PACKAGE OFFER ON POW'S

At last India is making a determined effort to break the deadlock blocking the release of the 90,000 Pakistani prisoners it has held since the war of December, 1971.

Premier Indira Gandhi has come forward with a package proposal for the prisoners' release worked out jointly with Bangladesh. The most encouraging thing about the plan is that Bangladesh is no longer insisting that Pakistan accord it official recognition before the POWs go home.

The proposal is for a three-way exchange of prisoners and minority populations. In addition to the Pakistani POWs, it would cover 175,000 to 200,000 Bengalis stranded in Pakistan since the war, and part of the Bihari community now living in Bangladesh.

Pakistan's initial reaction has been cautious. It appears to see the offer as a basis for negotiation rather than something it can accept outright.

President Bhutto of Pakistan has invited India to send representatives to Islamabad for discussions and "clarifications" of the plan. At the same time he has said flatly that he cannot accept Bangladesh's stated intention to retain some 200 of the POWs for war crimes trials. Mr. Bhutto may also raise objections to the proposed exchange of some 260,000 members of the Bihari minority. The Biharis are accused by Bangladesh of collaborating with the Pakistanis in their military repression of the Bengali independence movement in the months preceding the 1971 war. Sheikh Mujibur Rahman, the Bangladeshi Premier, has said that those Biharis who want to leave the country may do so. However, Pakistan up till now has indicated that it does not accept responsibility for relocating the Biharis, whom it regards as residents of East Bengal.

Our correspondent in New Delhi says India will insist that the package deal be accepted or rejected in its entirety, and that there can be no partial acceptance. This condition could again wreck hopes of an early settlement. While Pakistan must make concessions, as Bangladesh has done, it can hardly be expected to accept a cut and dried package without some discussion.

President Bhutto himself is now in a stronger position at home as a result of the National Assembly's recent adoption of his new constitution.

Unfortunately the constitution still refers to Bangladesh as East Pakistan. However, the hurdle of recognizing Bangladesh should be easier for Mr. Bhutto to clear once he gets his POWs home.

The joint Indo-Pakistani offer has been a long time coming. Now it has come, it should be quickly followed up.

[From Pakistan Mission to the United Nations, New York]

PAKISTAN INVITES INDIAN REPRESENTATIVES TO ISLAMABAD FOR DISCUSSIONS—INDIA'S FULFILLMENT OF ITS OBLIGATION UNDER GENEVA CONVENTIONS WILL ACCELERATE NORMALIZATION

Rawalpindi, April 20, 1973: A statement issued by the Government of Pakistan says that "For obtaining the necessary clarification of the implications of the statement (issued in Delhi on April 17), and in the spirit of promoting an advance towards peace, the Government of Pakistan has decided to invite representatives of the Government of India to Islamabad for discussions and also to explore further possibilities for the implementation of the Simla Agreement. The process of the normalization of the situation in the sub-continent would be accelerated by India's promptly fulfilling its unconditional obligations under the Geneva Conventions."

Following is the text of the statement:

"The Government of Pakistan has carefully considered the statement issued in Delhi on April 17. While the statement purports to be inspired by the vision of a durable peace in the sub-continent, the Government of Pakistan notes with regret that it contains several allegations which are both unfounded and unfair. Not wishing to enter into polemics over these issues and thus to prolong a chain of charge and countercharge, Pakistan deems it sufficient to reiterate its resolve to adhere to the letter, and fulfill the spirit of the Simla Agreement, with a view to the reduction of tensions, the settlement of disputes and the building of international relations in the sub-continent on the foundations of justice and equity. The many offers, acts and initiatives of the Government of Pakistan towards this end hardly need to be recalled.

UNCONDITIONAL OBLIGATION

"It is fact beyond question that the normalization of the situation in the subcontinent has been obstructed by India's continuing to hold in illegal captivity over 90,000 Pakistani prisoners of war and civilian internes despite the cessation of hostilities sixteen months ago. The Geneva Convention of 1949 about the treatment of prisoners of war, to which India is a signatory, makes it the obligation of the detaining power to release and repatriate prisoners of war 'without delay after cessation of hostilities'. The obligation is unilateral and unconditional. The principle involved is basic to international law and any compromise with it, open or disguised, can set a calamitous precedent. Apart from humanitarian considerations, it will nullify all obligations under the Geneva Conventions, which civilized nations have laboured for over a century to evolve and to make binding on all states. The Government of Pakistan notes with concern that their 'initiative' embodied in the statement issued in Delhi invites Pakistan to compromise the principle by agreeing to, or acquiescing in, conditions which are irrelevant and unrelated to the repatriation of the prisoners of war.

"The Government of Pakistan cannot recognize the competence of the authorities in Dacca to bring to trial any among the prisoners of war on criminal charges. According to an established principle of international law, only a competent tribunal of Pakistan can have jurisdiction in this matter since the alleged criminal acts were committed in a part of Pakistan and since also the persons charged are the citizens of Pakistan. It would be repugnant to a nation's sovereignty to surrender its exclusive jurisdiction in this regard. The Government of Pakistan reiterated its readiness to constitute judicial tribunal, of such character and composition as will inspire international

confidence, to try persons charged with the alleged offences.

ATMOSPHERE

"Apart from these inescapable considerations of both sovereignty and justice, the Government of Pakistan is gravely apprehensive that if the authorities in Dacca begin to hold these trials, it will poison the atmosphere and seriously retard the establishment of that climate of peace and reconciliation which is a dire necessity for the welfare of the peoples of the sub-continent.

"On its part, the Government of Pakistan in its desire to put an end to a chapter of tragic conflict, has exercised maximum restraint even to the extent of refraining from exercising its rightful jurisdiction and bringing to trial those Bengalis in Pakistan against whom there is evidence of the commission of such acts as subversion, espionage and high treason. The terms of the Delhi statement would make it impossible for this restraint to continue.

"The Government of Pakistan is prepared to fully cooperate with arrangements for all Bengalis to leave Pakistan if they so wish. Indeed, the Government of Pakistan has always sought a humanitarian solution of problem and has taken several steps consistent with that aim.

UNIQUE DOCTRINE

"As regards 'Pakistanis in Bangladesh' the propostion contained in paragraph 5 of the Delhi statement is extraordinary, advancing the unique doctrine that an ethnic, linguistic or political minority can be persecuted, offered an 'option' under pain of loss of jobs, property or even life and arbitrarily expelled from its place of domicile, creating an obligation for Pakistan to receive its members. The Government of Pakistan is acutely distressed at the tragic suffering of the victims of this prejudice and bigotry urges the international community to persuade the authorities in Dacca to protect the basic human rights to which these unfortunate people are entitled. The solution of the humanitarian problem which may still arise should be a concern of humanity. The Government of Pakistan is willing to fully participate in the effort of alleviating this human plight.

"Notwithstanding these difficulties inherent in terms of the Delhi statement, the Government of Pakistan feels that it constitutes a response to Pakistan's urgings for further dialogue between Pakistan and India. For obtaining the necessary clarifications of the implications of the statement and in the spirit of promoting an advance towards peace and normalcy the Government of Pakistan has decided to invite representatives of the Government of India to Islamabad for discussions and also to explore further possibilities for the implementation of the Simla Agreement. The process of the normalization of the situation in the sub-continent would be accelerated by India's promptly fulfilling its unconditional obligations under the Geneva Convention."

[From The Washington Post, May 17, 1973]

PAKISTAN RAIDS BENGALI HOMES

Pakistani police raided the homes of hundreds of Bengalis early yesterday morning. A government spokesman said the Bengalis who were taken away would eventually be repatriated to Bangledesh, but a Pakistan newspaper suggested that some might be tried for treason.

PAKISTANI POLICE ROUND UP BENGALIS

ISLAMABAD, May 6.—Pakistani police rounded up several hundred, and possibly thousands, of Bengalis in this capital early today.

A government spokesman said they were being taken to two or three places "in preparation for their eventual repatriation to Bangladesh."

Large squads of police raided the homes of Bengalis after midnight and took away people, with only a handful of possessions. Dozens of buses and trucks, with suitcases and bags piled on their roofs, took people to Islamabad's central police station.

The main target of the raids was an area of lower-class government housing where Bengalis formerly employed by the Pakistan government were recently ordered to settle, with about three families in each house.

The government spokesman said the Bengalis were being shifted to alternative accommodation because of congestion and pressure on official housing in the capital.

He said the government was also concerned that some Bengalis fleeing the country across the western borders with Afghanistan were taking files and important papers with them.

The spokesman stressed that the Bengalis were not being taken to any kind of camps or places of detention, and added that the Red Cross would be permitted to visit them.

The Red Cross has estimated that 157,000 Bengalis are stranded in Pakistan, especially in the southern part of Karachi.

Several thousand Bengalis are believed to have fled to the western border with Afghanistan. Facilities have been provided in Kabul, the Afghans capitol, to help them continue on to Bangladesh.

The fate of the Bengalis in Pakistan is linked to the 90,000 Pakistani prisoners of war held by India since Pakistan's defeat in the Bangladesh war of independence and to the large Bihari minority in Bangladesh. The Biharis are non-Bengalis many of whom collaborated with Pakistani army during the war.

EXCHANGE PROPOSED

India and Bangladesh have proposed an exchange of the Biharis and POWs for the Bengalis now in Pakistan.

The independent daily newspaper Jang (War) reported that the one of the places the Bengalis were taken is Warsak, about 20 miles from the Northwest Frontier city of Peshawar and close to the Afghan border.

The newspaper said in a front-page report that "those Bengalis who worked against the security and integrity of Pakistan, collaborated with the enemy and indulged in treacherous activity were being transferred in two batchs to camps in the Punjab." It added that investigations for the possible trial of Bengalis were now completed and trials could start at any time. One of the main sources of dispute between Bangladesh and Pakistan is Bangladesh's annonuced intention to try a number of Pakistan officers for war crimes.

NATIONAL ORGANIZATIONS TESTIFY ON SOCIAL SERVICES FOR AGED

Mr. EAGLETON. Mr. President, at a hearing held yesterday by the Senate Finance Committee, representatives of the American Association of Retired Persons, the National Retired Teachers Association, and the National Council on the Aging presented for the hearing record a very comprehensive and constructive statement on the provision of social services to the aged.

Their statement outlines the development of social services for the aged under the Social Security Act, analyzes the crippling effects of a change in the law made last year and new regulations issued by the Department of Health, Education, and Welfare on May 1, and makes recommendations for congressional action.

Mr. President, I ask unanimous consent that the testimony of these three organizations be printed in the RECORD.

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

HEARINGS ON SOCIAL SERVICE REGULATIONS

(Testimony of Cyril F. Brickfield, legislative counsel, National Retired Teachers Association, and American Association of Retired Persons; and Jane E. Bloom, Public Policy Associate, National Council on Aging)

Chairman Long, distinguished members of the Senate Finance Committee:

I am Cyril F. Brickfield, Legislative Counsel to the National Retired Teachers Association and the American Association of Retired Persons. These two Associations have a combined membership of more than five million one hundred thousand older Americans.

Joining with me, Mr. Chairman, is Mrs. Jane E. Bloom, Public Policy Associate of the National Council on the Aging. The National Council on the Aging, of which both the NRTA and the AARP are members, is an organization of groups directly concerned with the needs of older Americans and a membership organization of professionals involved in the direct provision of care and services to older persons.

Also accompanying us this morning is Mr. Laurence F. Lane of my staff.

We three organizations—AARP, NRTA and NCOA—welcome this opportunity to join before you to emphasize the serious concern we share regarding the impending demise of services to older Americans under Title I and Title XVI of the Social Security Act.

Essentially, Mr. Chairman, we are alarmed by the recent changes made in the program by P.L. 92–512 and by the regulations governing these social service programs for the elderly.

1. We find that thousands of elderly persons are being denied services because of stricter eligibility requirements; this denial is, in turn, forcing the elderly onto welfare rolls or, even worse, into nursing homes and other institutions.

2. We fear that the needs of the elderly will be neglected altogether if the states are allowed to determine how much money should be allocated for adult services.

3. Corollary to the above concern, we feel that each state should be required to make available a full range of basic services that will allow older persons to remain independent and in their own homes for as long as possible.

Underlying these concerns is a basic premise which was most eloquently expressed by Senator Eagleton in a Senate floor statement last week. The Senator declared:

"The primary purpose of social services for the elderly is to prevent dependency and institutionalization by providing the support that can enable older people to remain in their homes. To be efficacious, these services must be provided when they are most needed. And, they are needed, not at some arbitrary age, not at the point when the individual's income and resources meet cash assistance eligibility standards, but at that point in time when the individual becomes vulnerable to dependency."

Our mutual alarm has been heightened by the expressions of state officials such as the following excerpt from an official report of the Georgia Department of Human Resources:

"While the actual cutbacks in Title XIV aging programs have been acute, the potential impact of the revision appears to be of even greater magnitude. . . . many programs that were being planned to provide much-needed services to Georgia's residents may never be implemented—particularly at levels required to make significant impact on the needs of Georgia's some 368,000 elderly residents over age 65."

EVOLUTION AND UTILIZATION

In order to better understand our forthcoming recommendations for changing this situation, some background on the program would be useful to this Committee. For further details, we call your attention to a recent report by the Senate Special Committee on Aging entitled *The Rise and Threatened Fall of Service Programs for the Elderly,* which is appended to our testimony for your use.

Social services as now developed are authorized under the public assistance Titles of the Social Security Act: Title I—Old Age Assistance; Title IV—Aid to Families of Dependent Children; Title X—Aid to the Blind; and Title XIV—Aid to the Permanently and Totally Disabled. At one time, each State was required to administer a separate state plan for the aged under Title I, another for the blind under Title X and still a third plan to serve the disabled under Title XIV. Congress recognized the inefficiency, the duplication of efforts, and the added administrative cost of maintaining three distinct programs for adult recipients. Accordingly, in 1962 Congress enacted Title XVI ("Grants to States for Aid to the Aged, Blind or Disabled, or for such Aid and Medical Assistance to the Aged") which enabled states to operate a "combined adult program" with attendant savings in administrative cost. Twenty states have adopted Title XVI, the remainder continue to provide services to the aged through the other adult titles.

The primary purpose of the Act's social services programs for adults is to reduce dependency and promote the opportunity for independent living and self-support to the fullest possible extent. In the case of the elderly, such services are also intended to support a variety of living arrangements as alternatives to institutional care. Under regulations precedent to the ones just promulgated, certain kinds of services were required to be provided by each state, while others were offered as optional services. Overall, there had been a large area of discretion at the state level with regard to the extent and kinds of services which were supported.

Mandatory services for the aged, blind and disabled included: information and referral without regard to eligibility for assistance; protective services; services to enable persons to remain in or to return to their homes or communities; supportive services that would contribute to a "satisfactory and adequate social adjustment of the individual," and services to meet health needs. Optional services encompassed three broad categories: services to individuals to improve their living arrangements and enhance activities of daily living; services to individuals and groups to improve opportunities for social and community participation; and services to individuals to meet special needs.

With reference to eligibility, the states were allowed great leeway in determining categories of persons to receive these mandatory and optional services. In addition to all aged, blind or disabled persons who presently receive welfare payments, the state could elect to provide services to former recipients of financial assistance or to potential welfare recipients; this latter category included persons who are not money payment recipients but are eligible for Medicaid, persons who are likely to become welfare clients within 5 years, and persons who are at or near the dependency level.

For instance, a city agency could run a homemaker program for the elderly serving an area determined by census income figures to be a poverty area. While only 50 per cent of recipients of the program benefits might be actual recipients of Old Age Assistance, the other 50% of the individuals participating in the program would be deemed near the dependent level because of their marginal income as residents of the target area, and, therefore, eligible for homemaker assistance.

It is important to note, Mr. Chairman, that the Department of Health, Education and Welfare's Social and Rehabilitation Service estimates that nearly two million adults received assistance from social service programs during 1972, and that many of these individuals were older Americans.

The changes made by P.L. 92–512 meant that Federal funding of social services under Titles I, IV, XXIV and XVI of the Social Security Act is now limited to no more than $2.5 billion per year—fully eliminating the previous open-ended basis for the program. The amount allotted to each state is based on population; thus a State which has 10 per cent of the national population would have a limit on social service funding equal to $250 million, or 10 per cent of the total ceiling. It should be further noted in this discussion that no dollar amount by category is mandated within the ceiling. Thus, a state which receives $250 million in Federal funding may spend whatever percentage it wishes for services to the elderly under its Title I or XVI program. The elderly could receive all or none of the $250 million, based on State discretion.

Another newly enacted provision of PL 92–512 limits the eligibility for social services. Prior to the 1972 amendments, any program which had provided services to past, present or potential welfare recipients was eligible to receive funding. Now, 90 per cent of the allocated Federal matching dollars must be spent on current welfare recipients and no more than 10 per cent on past or potential recipients.

Although six categories were exempt from this 90/10 welfare/nonwelfare ratio, services to the elderly are not among these exceptions. Thus, services to the aged are subject to the stipulation that at least 90 per cent of the funds be expended on behalf of elderly welfare recipients. Although the 90/10 ratio need not apply to each individual service program, the paperwork involved in averaging the services provided by the state to conform to the 90/10 restriction precludes funding of projects that have an appeal to other than public assistance recipients.

As a result of the new 90/10 eligibility restriction, many senior centers and other providers of service have been cut off from funding by their state welfare department or have been ordered to cut back their services. The full impact of the new restrictions is yet to be realized. Some agencies providing these social services have been given short-term extensions while new funding sources are sought or new proposals written. And, because of poor accounting procedures, it has proved impossible to obtain a listing of all Title I and XVI projects now in operation throughout the country, making it extremely difficult to evaluate the total effect of the eligibility standard. However, it is important to note that preliminary evidence does confirm beliefs that the new law will cause a serious cutback in services to the elderly.

LEGISLATIVE CHANGES

From the above discussion, Mr. Chairman, it should be apparent that our organizations' basic objection lies not with the finalized regulations but, rather, with the legislative changes in PL 92–512 to which the regulations must conform.

We, therefore, urge Congress to consider legislation which would exempt the elderly (defined as persons aged 60 and over) from the restrictive 90/10 (welfare/non-welfare eligibility ratio. The Senate Special Committee on Aging suggests this could be done by amending Section 1130(a) (2) of the Social Security Act to add a Subsection (F) which would read: services provided to the elderly, defined as persons who have attained the age of 60 years.

A number of measures have been introduced in this Congress which would work toward this goal. Our organizations have gone on record in support of H.R. 3819 introduced by Congressman John Heinz, which would exclude from application of the 90/10 limitation services to the aged, blind and disabled; we support the Heinz bill, which now has 90 cosponsors, as a model for action by this committee.

Consideration should also be given by this committee to legislation instructing the Secretary of the Department of Health, Education and Welfare to provide reallocation procedures for social service funds whereby a state's unused allocation would be redistributed among the other states. Preference for reallocation should be given to those states with larger proportions of poor and near poor, and whose supplemental state plans would provide for certain services designed to prevent or reduce institutionalization.

Thirdly, we strongly urge Congress to mandate services under the adult titles. Under present statute, states need not allocate any of their allocated monies to serve adults. Clearly, the intent of Congress was to include not only one, but a whole host of services for the adult; this intent must be spelled out in legislation if the elderly are to be assured inclusion. We believe that a proper balance between adult programs and other non-aged programs can be accomplished either by requiring that a percentage of the social service funds available to a state be earmarked for adult services or by requiring the provision of specific services for the elderly before federal funds are made available.

ADMINISTRATIVE CHANGES

The final regulations compound the devasting impact of the 1972 amendments. We view the regulations as a top layer of restrictions designed to preclude utilization of services. These wholesale cutbacks in the social services area are unfortunate and will, in the long run, prove costly.

With respect to § 221.5, AARP, NRTA and NCOA object to the elimination of a requirement that states provide certain mandatory services to the elderly. We feel that each state should be required to make available a full range of basic services that will allow older persons to remain independent and in their own homes for as long as possible. If states elect to include the elderly in their plan, they need only choose *one* service. All others are optional. We believe that the old regulations—mandating a package of services and providing a number of optional services—should be reinstated.

Congress, in passing the Older Americans Comprehensive Service Amendments last month, recognized that for many older persons social services can mean the difference between living independently in their own homes or being unnecessarily and prematurely institutionalized at a much higher public cost. In passing this act, the Congress reaffirmed the Declaration of Objectives of the Older Americans Act of 1965 which promised older Americans, among other objectives, the following two goals:

Retirement in health, honor, dignity—after years of contribution to the economy . . .

Efficient community services which provide social assistance in a coordinated manner and which are readily available when needed . . .

If it is a federal objective to secure these goals, should it not be within the scope of the federal power to mandate minimum regulations toward obtaining these objectives? Where Congress designed these two programs to mesh in providing comprehensive services to older persons, HEW is working to dismantle the machinery.

With reference to the Section 221.9 services, our organizations wish to point out to the members of this committee several additional facts. The elimination of the information and referral services as a designated service is most unfortunate. As the preface to the Senate Special Committee on Aging print concerning social services points out:

An old person who simply wants information may find that he has to go to several public or private agencies, and even then he may be unable to piece together the information into a cohesive package for practical use. . . . Quite often those most in need of services do not receive them because they (1) don't know about them (2) may not fall neatly into the category which will qualify them for one service or another or (3) cannot reach the services because they have no transportation.

The elimination of homemaker services as a mandatory service and the elimination of prescribed standards recommended by such organizations as the National Council for Homemaker Services will have a marked effect on this viable alternative to institutional care. How much longer will the public have to shoulder the more expensive costs of institutional care before we will develop a policy to encourage home health programs?

As with other sections of the regulations, we find older Americans excluded from sharing the benefits of legal service assistance because of the narrow definition of how services may be used.

Our organizations deplore the redefinition for potential and past recipients of assistance in Section 221.6. The new definition of past and potential recipients of assistance are unrealistic, particularly in the case of the elderly, and the previous definition should be reinstated. Under the final regulations, an elderly person may be defined as a potential recipient beginning only at age 64½. "Former" recipients will now only be eligible for social services for 3 months. Unfortunately, the definitions become a moot issue in light of the current 90/10 welfare/non-welfare ratio.

If only 10 per cent are allowed to be former or potential Old Age Assistance recipients—and recent findings show that states will not even make this 10 per cent attempt—then only the definition of current recipients needs to be considered. If, however, legislative changes are made to exempt the elderly from the 90/10 restriction, the definitions of former and potential become all-important.

Should we prevent a husband and wife from receiving social services just because one spouse is below the age of 64½? We do not believe it was the intention of Congress to promulgate such an arbitrary age barrier.

The income test has been changed from 133⅓ per cent of the state's payment level to 150 per cent of the combined total of the Supplemental Security Income benefit level and the state's supplementary benefit level, if any. We ask, Mr. Chairman, was it the intention of the Congress to deny needed services to an older person living on a modest Social Security retirement benefit?

Of even more widespread implication is the prohibition against persons with any assets, such as a savings account, an insurance policy or an owned home, beyond those permitted cash assistance recipients. Was it the intent of Congress to force older Americans seeking to retain their dignity and independence to be subjected to the demeaning indignity of surrendering all their possessions in order to obtain minimum help through social services? If so, Mr. Chairman, this is a bleak day when we reward those who have struggled to be a productive force in the mainstream of our nation with artificial barriers to self-help.

Under both the proposed regulations and the final regulations of Section 221.8 services may be provided only to support the attainment of one of two goals—self-support or self-sufficiency. Under both the proposed regulations and the final regulations, the self-support goal is made inapplicable to the aged. Under the proposed regulations, the self-sufficiency goal was defined as applying to the aged, blind, disabled and families, without regard to whether they were current, former or potential recipients. However, under the final regulations, the self-sufficiency goal has been redefined to exclude former and/or potential recipients of assistance under the blind, aged, disabled and family programs.

Thus, because the other goal—self-support—has been made inapplicable to the aged, the result is that no social services of any kind may be provided an elderly person who is not a current recipient. We emphasize to the members of this committee that the social service goals set forth in the published regulations have been restated in such a fashion that there are no services that may be provided a potential elderly recipient at any age. The restrictive definition of a potential elderly recipient has been made inoperative. It is our understanding that Senator Eagleton has taken this issue up with the HEW Secretary and has received assurances that the regulations will be modified in this regard.

With respect to Sections 221.7 and 221.8 our Associations agree that evaluation and reporting procedures for social service programs should be improved to increase the cost-efficiency of the programs. However, these proposed regulations for the certification of eligible individuals and the drawing up of individual service plans go far beyond what is necessary to achieve cost-efficiency. In fact, they would result in precisely the opposite. They would create a burden of unnecessary paperwork and delay at the expense of providing services to the people who need them. Furthermore, letters from our members indicate that services to older persons are frequently needed on a one-time only basis. The proposed requirements for certification and individual service plans could delay the provision of these services to such an extent that the individual would be unable to receive them at the time they were needed.

CONCLUSION

In closing, Mr. Chairman, I wish to emphasize that the basis objections of the American Association of Retired Persons, National Retired Teachers Association and National Council on the Aging lies not with the finalized regulations, but rather, with the legislative changes in PL 92-512 to which the regulations must conform. We urge this committee to recommend and the Congress to enact the corrective amendments which we have outlined in this statement.

Pending this action by the Congress, our three organizations call upon the Secretary of Health, Education, and Welfare to withdraw the regulations issued May 1 and to revise these regulations to insure more equitable treatment of older Americans. In this effort, we solicit the support of this distinguished committee.

Thank you.

MAY—SENIOR CITIZENS MONTH

Mr. CLARK. Mr. President, this month has been proclaimed Senior Citizens Month by the President of these United States. Certainly it is an appropriae occasion for every citizen to reflect upon the achievements and contributions which older Americans have given to their country. For it is today's seniors that made this Nation a strong, progressive leader in the world of nations.

It would seem appropriate, then, in the strongest and wealthiest of all countries that every older citizen would be able to live a life characterized by activity, fulfillment, and satisfaction.

This, all too often, is not the case. I would like to share with Senators an article entitled "Plight of our Elderly Seen as American Disgrace," published in the Sioux City Journal of May 9, 1973.

This story concerns a man named Joe Makowitz, of New York. It could just have well been about Sam Smith of Iowa or Max Jones of "Anytown," U.S.A.

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:

PLIGHT OF OUR ELDERLY SEEN AS "AMERICAN DISGRACE"

NEW YORK.—In 1910, when he was 21 years old. Polish-born Joe Makowitz came to the United States to build a life of meaning and substance and joy.

But it didn't work out as planned.

Almost since the moment he arrived, the immigrant (now a citizen) has failed and floundered. For 63 dreary years he has lived in solitary desperation in an 8-by-5-foot hotel room in Manhattan sleazy Bowery district.

For almost as long as he has drifted into and out of a gloomy assortment of activities including stoop labor and panhandling. And in all this time he has acquired nothing: no family, no friends, no money, no past and most assuredly, no future.

Today, the 84-year-old man is among that awful army of barely washed, forever suffering and totally unwanted human debris known as derelicts. All his life in this nation he has been a nobody; and now, hobbled with the diseases of the aged, waiting mainly for death. Joe Makowitz has reached the final despair; he is an *old* nobody.

He is, unhappily, not alone in his anonymous wretchedness. The backways of American towns large and small are populated by the same kind of faceless, nameless, defeated peasants.

Precise statistics are unavailable, but many of the routine figures about old people—such as the fact that 34 per cent of the nation's aged live alone, 60 per cent live in substandard housing and one of every four dwell at or below the income poverty level—are indication enough that dereliction is an all too ripe potentiality for many of the nation's 20 million senior citizens.

New York, as one exaggerated example, is in some areas almost crowded with the peers of Joe Makowitz. Winos stagger through the rubbish of the Lower East Side; addicts nod in the doorways of Harlem and the South Bronx; homeless vagabonds dodge the police in Grand Central Station and the Staten Island Ferry Terminal. One city social worker estimates there are "anywhere from 5,000 to 50,000" derelicts in the five boroughs, and adds: "Whatever the number, it's scandalous."

Scandalous? Not exactly. That word implies some degree of public outrage, which in this case does not apply. Americans do not apply. Americans do not care enough about the elderly to be outraged at any of the generation's problems. Dereliction least of all.

In New York, for instance, pedestrians who are confronted by an ancient drunk on the sidewalk do not act at all scandalized. They do not even call a cop. They merely, routinely, step over and ignore the bothersome object.

Disgrace would be a better term. The elderly unwanted are a social disgrace. Moreover, believes Pam Scott of New York City's

Office on the Aging, the disgrace is, among advanced Western nations, peculiarly American: "You don't see people like this lying around the streets of Paris or London."

Even the poorer nations of Asia, as anthropologist Margaret Meade has repeatedly pointed out, cling to the philosophy that the past of the old is the future of the young and thus the societies strive to preserve the dignity and respectability of the elderly.

America, of course, does have some commitment to its older generations—social security, Medicare and old age assistance—yet the continuing presence of aged nobodies is, say critics, ample evidence that this most advanced nation is still missing the mark.

It is, in all honesty, not easy for any nation to help the really wretched old. Pam Scott recalls an episode with a "shopping bag woman" of her neighborhood: "She was a typical vagrant. Everything she owned was in her shopping bags. I doubt if she had any permant shelter. But when I tried to help her, she just refused to be helped. I brought her into our office repeatedly, but all she said was that I worried too much."

Ms. Scott believes that many old derelicts are suspicious of social agencies; because despite their conditions they do not want to give up their last measure of dignity—individuality.

Yet such problems do not fully explain the ongoing process of dereliction in the nation. There is no doubt, as Janet Sillen of this city's Bellevue Hospital geriatric section believes: "We (people) are just not reaching out for these people."

Why? In part because there's not much to do with them once they've been reached. The nation's 25,000 nursing homes (only half of which employ qualified nurses) are overcrowded as is. Private housing is even in worse shape, the 1972 White House Conference on Aging reported there is an urgent need for 120,000 new housing units per year for underprivileged retired people.

As for other concerned institutions, there just aren't many: New York's state hospitals, as example, have in recent years given up accepting patients on the basis of senility alone—to get in these days, says a state official who doesn't like the rule, "an old person has to be foaming at the mouth."

Joe Makowitz, for one, does not foam at the mouth. He has been mugged in the streets, has been partially paralyzed by a stroke, and has lived long years of privation which have left him slow and helpless—but he does not foam at the mouth. Thus he must, at 84 and a hapless derelict, still fend for himself in the world.

The world? Makowitz world is his 8-by-5 room (at the end of a 36-inch-wide hallway) on the seventh floor of the "Bowery Hilton," the Salvation Army Hotel. It is not posh. One of his neighbors has decorated the pull on a ceiling light with a Christmas ornament; other than that there is no decor worth mentioning.

And neighbors? The fellow across the way has just been paroled from prison after serving 35 years for murder; the guy in the wheelchair at the window has recently had his toes removed in surgery and hallucinates much of the time about monkeys biting his feet; a chap in the canteen is trying to get a spoonful of potatoes into his mouth but his motor mechanisms have been muddied by four or five decades of alcoholism.

And outside, for Joe Makowitz it is not much better. Two years ago some kids in a park stole his witch at knifepoint. Last year when he tried to vote for the president he found he could not read the ballot and there was nobody to help. Today if he wanders any distance from the Bowery he is frightened by traffic or humiliated by his fellow Americans who take pains to keep him downwind.

Eighty four years, then.

Of nothing.

And when the sad man dies he will be nailed into a cheap box and buried in a mass grave at potter's field. So far that's the best solution we have for the old nobodies.

EMERGENCY FUNDS

Mr. CHURCH. Mr. President, recent events are creating an atmosphere of cynicism toward representative government. These doubts cannot be dispelled when the American people are called upon to obey restrictions and regulations under the pretext of the existence of a state of national emergency, dating back to the banking crisis of 1933 and the Korean conflict of 1950. The work of the Special Committee on the Termination of the National Emergency, the bipartisan committee on which Senator MATHIAS and I are cochairmen, is therefore particularly relevant. The special committee is reviewing the many sections of the United States Code that become applicable during a declared state of national emergency, plus the process by which an emergency may be declared. It is also preparing procedures that will assure that, in the future, emergency powers do not endure once the instigating conditions have passed.

Hearings were held in April; more will take place in June.

The May 11, 1973, issue of "Commonweal" discusses some aspects of the special committee's findings thus far. I ask unanimous consent that the editorial comment be printed in the RECORD.

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

EMERGENCY POWERS

Before staffers of the Special Senate Committee on the Termination of the National Emergency got very deep into preparations for hearings on emergency powers statutes, they made some amazing discoveries.

First, they incorrectly thought that the state of national emergency proclaimed by President Truman on Dec. 16, in response to both the invasion of Korea by Communist China and worries of Communist aggression worldwide, was the only such declaration. Research disclosed, however, that the U.S. had been in a state of declared national emergency since March 9, 1933!

That was when Congress, at the request of President Roosevelt, passed the Emergency Banking Act, allowing the President to exercise in peacetime what had originally been war powers. No one ever thought to declare the emergency ended and repeal the Act.

More significantly, Special Committee researchers found that nowhere in government—either in Congress or in the Executive branch—was there a complete catalogue of statutes and Executive Orders pertaining to emergency powers.

In April, in cooperation with the Library of Congress, the General Accounting Office and the Justice Department, the researchers undertook a computer hunt of all relevant statutes in the U.S. Code. The findings are now being collated by staff and shortly the Special Committee will issue what it calls "a reasonably complete (sic) catalogue of all emergency power statutes." The process is taking one month, which gives some idea of the inaccessibility of information one would expect to be immediately at hand.

The inconsistency and confusion involving national emergency powers lend urgency to the Special Senate Committee's efforts to uncover and review every emergency statute for the purpose of knowing how many exist, which are needed, which can be junked, which should be revised.

"It is sensible for the Legislative and Executive branches, working together, to lay out a reasonable, regular and consistent procedure for coping with future emergencies," the Special Committee declared in a joint statement. "Insofar as it is possible to prepare for future emergencies through statute, the Special Committee believes that it is beneficial to leave such a body of law, provided however that such statutes provide for effective oversight and for the termination of delegated authority when the state of emergency is no longer warranted."

At this juncture, the Special Committee has arrived at no more than a few preliminary, tentative conclusions on the subject—specifically:

"There is no consistent way in which emergencies are invoked, reviewed, or terminated. Emergencies in most cases are declared by the President, in a few by the Congress, in some cases jointly; in still others, heads of Departments can declare emergencies. A few statutes require reports or some process of review; most do not. Very few provide for a method of termination."

The Special Committee plans several blocks of hearings on the emergency-powers issue, the next one being slated for June. The Special Committee is to report back to the Senate by February, 1974.

FINANCIAL DISCLOSURE

Mr. BAYH. Mr. President, as the Members of this body well know, I have long supported the imposition of higher ethical standards on all of us who do the Government's business. I believe that these standards should be applied to members of the Executive branch, to members of the Judiciary, and to Members of Congress. Once again I have introduced legislation—S. 1766—which would accomplish this purpose.

In order to indicate my good faith and my concern about the need for voters to have access to detailed information on the financial affairs of Members of the House and the Senate, I am today submitting a disclosure of my assets and liabilities, together with my income for the year 1972. I ask unanimous consent that this statement be printed in the RECORD.

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

Personal financial disclosure Senator and Mrs. Birch Bayh *

ASSETS MAY 1973

Cash in hand and in saving and checking accounts (approximate)	$4,600
340 acre farm Vigo County, Ind. (basis at acquisition)	68,000
Residence, Washington, D.C.:	
Cost:	
Lot	25,000
House	75,000
Less mortgage, balance due	−54,209
Net	45,791
Securities placed in blind trust in May 1970 with Terre Haute First National Bank (based on May 14, 1970, market value; present investments and value unknown)	45,655
372 shares Vigo County, Ind., Farm Bureau Cooperative Association, Inc., patron account No. 21880	1,915
Farm Producers Marketing Association	250

Personal financial disclosure Senator and Mrs. Birch Bayh—Continued

Tangible personal property in Washington, D.C. (estimated)	$6,500
Cash value of life insurance (approximate)	9,520
Buick sedan 1970 (book value)	1,400
Chrysler sedan 1970 (book value)	2,200
Total assets	185,831
Less personal note, Merchants National Bank, Indianapolis	5,000
Total net assets	180,831

INCOME 1972

Salary as U.S. Senator	42,500
Honoraria and writing income	14,010
Farm income	9,814
Dividends, interest, and gains on investments	1,922
Total income	68,246

*Does not include property which was purchased by Mrs. Bayh in her own name with the proceeds of her father's estate.

HARRY C. HAMM—A GREAT NEWSMAN AND GREAT WEST VIRGINIAN

Mr. ROBERT C. BYRD. Mr. President, it was my good fortune to have been invited to attend a dinner honoring my good friend Mr. Harry C. Hamm, editor of the Wheeling News-Register and editor in chief of the Ogden newspaper chain, at Ogleby Park in Wheeling, W. Va., on Saturday night, May 12. My schedule did not permit me to attend, but I was pleased to send my felicitations to this able editor; and I wish to comment further upon Mr. Hamm's contributions to his profession and to his native city of Wheeling.

The dinner marked Mr. Hamm's 50th birthday. It was arranged by his colleagues in the news media in recognition of the outstanding record he has made, both in journalism and in regard to civic responsibility. That others outside his profession appreciate Editor Hamm's accomplishments is attested to by the fact that he has previously been honored by numerous organizations, including the National Police Officers Association of America, the Rotary Club, the U.S. Junior Chamber of Commerce, and the American Association of University Professors.

Among the many activities, in which Mr. Hamm has actively engaged, have been the campaign to clean up air pollution in Wheeling, which he spearheaded; the first comprehensive planning and industrial development effort in that city; and Wheeling's urban renewal program, in which he served as chairman of the Wheeling Urban Renewal Authority, helping to prepare the first such program in West Virginia.

Mr. Hamm currently is president of the West Virginia Association of the Associated Press, and he was president for two terms of the United Press International Editors of West Virginia. He has served as well on the board of directors of the West Virginia Press Association.

Harry Hamm began his newspaper career in 1941 as a reporter on the News-Register. His work was interrupted by World War II, during which he served 3 years in the U.S. Army—two of them overseas in the European Theater, where he won the Purple Heart with Oak Leaf Cluster.

Returning to the paper after the war, he became its city editor in 1948. He was made managing editor in 1951, editor in 1956, and on July 1, 1968, he was promoted to editor in chief of the Ogden chain, which is composed of 11 newspapers in four States—West Virginia, New York, Iowa, and Missouri. In this position, he exercises overall editoral and news supervision, and his editorial column appears in papers of the chain.

Mr. Hamm is married to the former Miss Mary Haddox of Moundsville, W. Va., and they are the parents of 12 children.

I am very happy to join with Harry Hamm's colleagues, and with his friends in general, in saluting him upon the occasion of his 50th birthday. Both newspapering and the city of Wheeling have benefited greatly by the work which he has done.

Mr. President, I ask unanimous consent to insert at this point in my remarks, a copy of the message which I sent to be read at the dinner honoring Mr. Hamm.

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

HONORING MR. HAMM

I am delighted to take this means of extending my best wishes to my friend Harry Hamm on his 50th birthday. Let me say that I am glad that you are having a *Hamm Roast* tonight instead of a *Byrd Barbecue*.

My mind has not been fully made up until now—but maybe editors, more than reporters, are in need of a "shield law."

In sending my congratulations in this way, I shall try to be careful in what I say. I know only too well that an editor always has the last word.

I will say only that I once heard a newsman say that an editor's 50th birthday is when he starts worrying more about his *hairline* than about his *deadline*.

With Senators, Members of the House of Representatives, and the Governor all invited to help Harry celebrate this evening, it's too bad that you couldn't also have had the Vice President on hand to say a few words about the media.

Since you won't have that pleasure, let me simply say to a great editor of a great newspaper chain—and to all of you who have gathered to do him honor this evening—that I hope Harry Hamm, a man whom I greatly admire and respect, will have 50 more years as successful as his first 50 have been!

Thank you, and my very best wishes to all of you.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

AMENDMENT OF THE SMALL BUSINESS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume its consideration of the unfinished business, S. 1672, which the clerk will state by title.

The assistant legislative clerk read the bill (S. 1672) by title, as follows:

A bill to amend the Small Business Act.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side.

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

The second assistant legislative clerk proceeded to call the roll.

Mr. 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.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent to speak out of order at this time and that the time not be charged to either side.

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

THE CBS NEWS SPECIAL REPORT ON THE SENATE AND THE WATERGATE AFFAIR

Mr. MANSFIELD. Mr. President, on Sunday last, I viewed with interest a CBS News special report entitled "The Senate and the Watergate Affair." In the course of that telecast the seven members of the Watergate Committee were singled out, described, and categorized.

May I say that, as far as I am concerned—and I think I speak for the entire Senate—not a better representative group of Senators could have been chosen to conduct this investigation on a fair, impartial, and nonpartisan basis. However, I must say that I deeply resent some of the statements made about some of the Senators, especially Senator DANIEL KEN INOUYE, of Hawaii, a man who served this country in a most difficult time for him and people of his descent, a man who was a member of the most highly decorated regimental combat team in the entire period of the Second World War, a man who lost an arm in the service of his country, a man who earned a battlefield promotion the hard way, and a man who has represented his State, Hawaii, since it entered the Union; and he has represented Hawaii with distinction in both the House and the Senate.

I note, for example, present on the floor the distinguished Senator from Texas (Mr. TOWER), and I am sure he is aware of the fact that there is a very close relationship between many Texans who served under Gen. Mark Clark in Italy and the regimental team of which DANIEL KEN INOUYE was a member. I believe—I am not certain, but I believe—that the State of Texas has, in effect, conferred honorary citizenship on the members of that outstanding regimental combat team because of the close cooperation, coordination, and spirit of comradeship in battle between that group and a particular Texas division

serving at the Rapido River, in Italy, at that time.

The telecast last Sunday referred to Senator INOUYE as follows:

Not a powerful Senator, but adept at log-rolling.

I resent that appellation of our colleague, because I know of no Senator who has been more conscientious, more dedicated, or more involved patriotically in the interests of his country and the well being of the Republic, to which he gave so much at a time of deep stress.

Senator INOUYE is not and has not been a logroller. Senator INOUYE has been one of the strong right arms of the Democratic leadership, and he has been one of the chief assistant whips. That position was not given lightly, but in recognition of the dedication and ability of this great Senator. He has performed his duties with distinction, with integrity and with patriotism, and he has not been involved in any kind of logrolling whatsoever.

For Senator INOUYE, as for all the members of the special committee, I have a deep affection and a great personal regard, and I can say without fear of equivocation that every Senator, Republican and Democratic, feels the same way.

The next Senator mentioned was JOSEPH MANUEL MONTOYA, of New Mexico. The reference to him is as follows:

A weak reputation in the Senate; most frequently described as a light weight; works very hard for New Mexico.

The latter part of the statement is the only part I would agree with. He works very hard for his State, as all of us do. But he also works very hard for the Nation as a whole.

JOE MONTOYA has made many contributions to the betterment of our people in the many years he has served in both the House and the Senate. JOE MONTOYA is not a lightweight. He is anything but that. I, too, know JOE MONTOYA from the House and the Senate. I know what JOE MONTOYA is and what he has done. I know of his dedication and his integrity. I resent very deeply that this man, this outstanding Senator, is described flippantly as having a weak reputation in the Senate when the exact opposite is true. I resent very much his being described, flippantly, as a lightweight, because the exact opposite is true.

I deplore the kind of characterization in this telecast because it is in no way correct, and because it tends to downgrade two of the most outstanding Members of this body.

I want the RECORD to show my very high regard for Senators INOUYE and MONTOYA, and that I depend on both of them for advice and counsel, I want the RECORD to show that they have dedicated themselves to their States, to the Nation, and to this body.

I want to state for the record, too, that they are men of good reputation, excellent reputation, and outstanding reputation, and that both of them will do a good, fair, impartial job on the committee which they now grace. Both are lawyers, and both are men of whom the Senate is proud.

As far as the other members of the committee are concerned, I see nothing derogatory on the basis of this broadcast except one other reference which refers to the vice chairman of the committee, the distinguished senior Senator from Tennessee (Mr. BAKER) as "no longer regarded as the administration water boy."

Speaking as a Member of the opposing party, I have never regarded Senator BAKER as a water boy at any time in his career in the Senate, now in its seventh year. He has been independent in his judgment. He has always done what he considered right. He has not been swayed by outside interests, either from downtown or elsewhere. I think that the Senate and the Nation are especially fortunate to have a man of the caliber and integrity and dedication and patriotism of Senator BAKER as the vice chairman of the Watergate Committee.

So, for the RECORD I want it understood, as far as the majority leader is concerned, he not only has an extremely high regard for Senator INOUYE and Senator MONTOYA whom, incidentally, the majority leader has appointed to this committee, but he also has an extremely high regard for all seven members of the Watergate Committee. I anticipate and expect without doubt that the job they will do will be workmanlike, and, to repeat, fair, impartial, and nonpartisan.

I think the Senate is extremely fortunate to have been able to have such men as the chairman of the committee, Senator SAM ERVIN, of North Carolina; Senator HOWARD BAKER, of Tennessee, vice chairman; Senator HERMAN EUGENE TALMADGE, of Georgia, who has one of the keenest minds in the Senate, a man of brilliant intellect whose talents and ability have never been fully appreciated except by those of us who really know him; Senator INOUYE of Hawaii; Senator MONTOYA, of New Mexico; Senator EDWARD GURNEY, of Florida; and Senator LOWELL WEICKER, of Connecticut.

I do not think that a better composite group of Senators could have been chosen. As far as I am concerned, I will not stand by quietly and see them labeled as lightweights or weak or log rollers or water boys. It just is not true, and their records will bear out what I have said.

Mr. SCOTT of Pennsylvania. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. Mr. President, I would be delighted to yield to the distinguished minority leader.

Mr. SCOTT of Pennsylvania. Mr. President, I want to share in the indignation of the distinguished majority leader at this further accession of McCarthyism at its worst.

Mr. President, McCarthyism was not too promptly condemned by this body when it was rampant. I take the greatest of pride in the fact that I was the first Member of Congress to condemn McCarthyism in the America magazine at a time when the American public, I am sure, thought it was a dangerous thing to do, although I must admit that I did not.

We now have McCarthyism again. If the Senate does not stand up against McCarthyism and do something that it has failed to do for too long, stand up against this, we will be derelict in our duty.

The Senator from Wisconsin (Mr. PROXMIRE) led the way.

Mr. President, I think we ought to serve notice right now that we honor and praise and glory in a free and independent and vigorous press. But we will express in the Senate and elsewhere our indignation when this precious right is wantonly abused by those who seek to pile sensation upon sensation. Ninety-five percent of the media personnel in this country are hard working, honorable, and fairminded men. However, some yield to temptation, as some in every group yield to temptation. And it is wrong, wrong, wrong.

Mr. President, we take responsibility, the majority leader and myself, for the members of the Ervin committee. On our side of the aisle, the distinguished Senator from Texas, the chairman of our Policy Committee, was consulted, as were all members of the leadership—the distinguished assistant minority leader, the Senator from Michigan (Mr. GRIFFIN); the chairman of the conference, the distinguished Senator from New Hampshire (Mr. COTTON); the Secretary of the Conference, the distinguished senior Senator from Utah (Mr. BENNETT). And all of us met together. It was our first and unanimous choice that our ranking member should be the distinguished and trusted and eminent senior Senator from Tennessee (Mr. BAKER).

It was our unanimous choice that the other Senators from the minority side should be the distinguished senior Senator from Florida (Mr. GURNEY) and the distinguished junior Senator from Connecticut (Mr. WEICKER).

These men, as well as the distinguished majority members of the committee, are men of the utmost integrity. And before they accepted these designations on the minority side—and I am sure that the same thing is true with respect to the majority side—they sought and received from us a clear and unmistakable pledge that we would in no way interfere in the conduct of their responsibilities, that we wished them to pursue the truth vigilantly and to the end that their responsibilities would be exercised by them alone, and that we would back them up, no matter where the road led.

We cannot have the integrity of the Senate recklessly impugned by people who do not know what they are talking about, and who simply want to enlarge their audience in this irresponsible manner.

We trust them all. I have the greatest confidence in the chairman, the distinguished senior Senator from North Carolina (Mr. ERVIN), and in the membership from the majority, the distinguished Senator from Georgia (Mr. TALMADGE), the distinguished Senator from Hawaii (Mr. INOUYE), and the distinguished Senator from New Mexico (Mr. MONTOYA). These men ought not to be hampered, at the beginning of their difficult and burdensome job, by any kind of petty sharpshooting or sniping at their motivation or upon their character or their integrity.

The Senate prides itself upon the

honor of its Members. It prides itself upon the fact that its Members so conduct themselves as to be worthy of the public trust, as this committee will. This is a nonpartisan, or, if you wish, bipartisan committee, and I am very glad that, although I did not hear the whole of this program, I have heard the distinguished majority leader, and I am aware of the nature of the program.

I think it is time that those who behave in this manner be at least put on notice that when they do it, the Senate will rise in its wrath and smite them for all it is worth.

Mr. TOWER. Mr. President, will the majority leader yield?

Mr. MANSFIELD. I am delighted to yield.

Mr. TOWER. I would like to associate myself with the remarks of both the distinguished majority leader and the distinguished minority leader.

I think it is time that we did stand up, as Senator SCOTT has said, when all too often the news media present editorial opinion as fact, and I am delighted that the majority leader has taken the initiative here today in standing up for Members of this body whose ability, standing, or integrity has been questioned.

Senator MONTOYA comes from my neighboring State of New Mexico, and he is the only Member of the Senate of Mexican-American descent. Senator INOUYE fought with valor and distinction with the 36th Texas Division in Italy. I share the resentment of the majority and minority leaders at the kind of presentation the American people were subjected to on the program referred to.

Mr. MANSFIELD. Mr. President, in conclusion, may I say that if any Member of this body in a position of leadership has a reputation for not—I repeat, not—being an arm-twister, it is the Senator from Montana now speaking. But I must confess that, for the first time in my political career as majority leader, I had to do some arm-twisting to get Senator ERVIN to consider seriously taking the chairmanship of this committee. In that respect, I recall going to the distinguished Republican leader and asking him for his support in that endeavor, and his support was given wholeheartedly.

May I say, furthermore, that Senator TALMADGE, Senator INOUYE, and Senator MONTOYA were not eager to serve on the Watergate Committee, but on the basis of pleas made by Senator ERVIN and me, they did consent; and I must say that I am delighted that they are members of the committee, and I am delighted that they have as their counterparts the three Republican Senators who also are serving.

They will do a good job. It will not be a case of "show biz." It will not be a television spectacular in the usual sense. It will be a hard-working committee, trying to arrive at the facts, and doing so on a basis of dignity, dedication, impartiality, and nonpartisanship.

These remarks are made voluntarily by me because of my great admiration, affection, and respect for all seven members, and because I do not think that they should be labeled in the way that some of them have been. There is such a thing as personal dignity and personal feelings. All these Senators have passed the test which really counts, the test imposed upon them by the electorate in their States. They are here as representatives of those sovereign States, to use a constitutional term applicable to the first phase of this Republic. They are comporting themselves with dignity and distinction, and with credit to the Senate.

I thank the Chair for permitting me to make these few remarks.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MANSFIELD. I am delighted to yield.

Mr. ROBERT C. BYRD. Mr. President, I wish to associate myself with the statements that have been made by the distinguished majority leader, the distinguished Republican leader, and the distinguished Senator from Texas (Mr. TOWER). I think it is most unfortunate that the labels to which the majority leader and others have referred have gone out over the airwaves to the people of this country, casting undue and unjust reflection upon these outstanding Members of the Senate, who were chosen by the majority leader and the minority leader to serve on the Ervin committee. I think to that extent such categorizations are a reflection on the leadership of the Senate as well, and unfortunately they also constitute a reflection—unjustly again—upon the media, reflecting their own biases.

We are all subject, Mr. President, to our own prejudices and biases. We are all human. But I think that those who have a high calling—such as that which rests upon the members of the fourth estate, and which also rests upon us as elected representatives of the people—also bear a heavy responsibility to be objective and fair in the performance of the duties that are incumbent upon us—both in the media and in Government.

So I regret what has been said in derogation of Mr. INOUYE, Mr. MONTOYA, and Mr. BAKER. All Senators appointed to serve on the Ervin committee are able and conscientious men. They are not "lightweights," or "water boys." I consider it a disservice to the Ervin committee and to the purpose for which it was formed, a disservice to the Senate, and a disservice to the media themselves for such irresponsible categorizations to be made.

I thank the majority leader for expressing his indignation and for allowing me to associate my own remarks with his.

Mr. MANSFIELD. Mr. President, I thank the distinguished Senator from West Virginia, and I thank the Senator for allowing me this time.

I suggest the absence of a quorum, with no time taken out of the time of the distinguished Senator from California (Mr. CRANSTON).

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed a bill (H.R. 5777) to require that reproductions and imitations of coins and political items be marked as copies or with the date of manufacture, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 5777) to require that reproductions and imitations of coins and political items be marked as copies or with the date of manufacture, was read twice by its title and referred to the Committee on Commerce.

AMENDMENT OF THE SMALL BUSINESS ACT

The Senate resumed the consideration of the bill (S. 1672) to amend the Small Business Act.

Mr. CRANSTON. Mr. President, I ask unanimous consent that during the consideration of S. 1672 and during all votes thereon, Carolyn Jordan, Win Farin, Herb Spira, Dudley O'Neal, Reggie Barnes, Mike Burns, Rod Solomon, Hal Walman, Joan Baldwin, John Adams, and Jack Lewis be afforded the privileges of the floor.

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

Mr. CRANSTON. What is the pending business?

The PRESIDING OFFICER. S. 1672. The bill is open to amendment.

Mr. CRANSTON. Mr. President, I will make very brief remarks and then we will proceed to consider the various amendments.

Mr. President, the legislation which we are considering today, S. 1672 is of major importance to the small businessmen of America.

The legislation as reported out of the committee would do the following:

First. Section 1 of the bill would effect four amendments to the provisions of section 4(c)(4) of the Small Business Act governing the total amount of loans, guarantees and other obligations and commitments which may be outstanding at any one time from the SBA's business loan and investment fund. These amendments are to increase the ceilings of the revolving loan funds of the SBA. Current budget projections indicate that the present ceiling will carry them only through August 1973.

Second. Section 2 of the bill would consolidate several sections of the economic disaster program of the Small Business Administration dealing with the Coal Mine Health and Safety Act, the Wholesome Meat Act, and the Occupational Safety and Health Act and provide a new section authorizing the SBA to assist small business concerns in

meeting requirements imposed by any Federal law or any State law enacted in conformity therewith if such concern is likely to suffer substantial economic injury without assistance.

This amendment is a longstanding effort by the distinguished chairman of the Select Committee on Small Business (Mr. BIBLE) and the Small Business Committee presents this as an excellent piece of legislation.

It is the policy of the Congress that the Government should aid, counsel, assist, and protect, insofar as is possible the interests of small business concerns in order to preserve free competitive enterprise . . . and to maintain and strengthen the overall economy of the Nation.[1]

The national need for a viable small and independent business community can be traced to the 19th century with passage by the Congress of legislation that focused public attention on the growing power of the corporate structure and the many difficulties that faced smaller firms.

Today, there are 5½ million small businesses in our Nation which provide for an estimated 40 percent of the Nation's jobs and 37 percent of the gross national product. While economic strength achieved by the United States is often credited to our large mass production industries, great credit must go to the millions of small firms who are suppliers of big businesses and who help link large businesses with the consuming public by distributing and servicing mass-produced consumer goods.

It is well recognized that the small businessman is more singularly affected in times of economic doldrums than large businesses. The Congress has recognized this in many actions it has taken to assist the small businessman. This bill recognizes and addresses itself to the fact that the small businessman is at a disadvantage in obtaining financing at reasonable rates. The financial assistance needs of small businesses like other businesses, are for credit and equity capital. The Task Force on Improvements for Small Business indicated that one-fifth of the small businessmen consulted listed financing first among their problems. It was also pointed out that in times of monetary restraint such as the present, small businesses and particularly new ventures in small business, appear to be handicapped vis-a-vis large, well established corporations in acquiring financing.

The Senate Subcommittee on Small Business through its oversight responsibility, will continue to review the operation of the Small Business Administration to emphasize the support of the Congress for this Nation's small businessmen and to assure that the Small Business Administration has adequate resources to assist all small businesses in all parts of the Nation, to carry out the expressed policy of the Congress. The committee recommends this bill as an avenue to reduce the uneven impact of national policies of fiscal and monetary restraints on small businesses.

Mr. President, I ask unanimous consent that an excerpt from the committee report be printed in the RECORD.

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

HISTORY OF LEGISLATION

S. 804 was introduced on February 7, 1973, and hearings were held by the Small Business Subcommittee on March 13, 1973.

S. 1113 was introduced on March 7, 1973 and hearings were held by the Small Business Subcommittee on March 13, 1973.

On March 27, 1973 the committee voted unanimously to report a clean bill with (S. 1113) as section 1 and (S. 804) as section 2 and section 3 with two technical amendments.

EXPLANATION OF THE BILL

S. 1672 is divided into three sections. Section 1 of the bill amends section 4(c)4 of the Small Business Act to increase the total amount of loans, guarantees, and other obligations or commitments outstanding by the Small Business Administration.

Section 1 effects four amendments to the provisions of 4(c)4 of the Small Business Act.

Paragraph 1 of section 1, the first of these amendments would increase from $4.3 billion to $6.6 billion SBA's lending authority for direct, immediate participation and guaranteed loans under section 7(a); displaced business loans under 7(b)(3); trade adjustment assistance loans under section 7(e); subcontract authority under section 8(a) and economic opportunity loans under title IV of the Economic Opportunity Act of 1964.

Paragraph 2 of section 1 will increase from $500 million to $725 million SBA's lending authority to SBIC's under title III of the Small Business Investment Act of 1958.

Paragraph 3 of section 1 will increase from $500 million to $600 million the amounts outstanding from the loan fund for purposes of the State and local development company loan programs under title V of the Small Business Investment Act of 1958.

Paragraph 4 of section 1 will increase from $350 million to $475 million SBA's lending authority under title IV of the Economic Opportunity Act of 1964 for loans to low-income individuals and for businesses located in areas of high unemployment or low income.

The Small Business Administration estimates that these increases will assure continued lending activities through fiscal year 1975.

Section 4(c)1 of the Small Business Act, as amended by Public Law 89-409 approved May 2, 1966 (a business loan and investment fund, and a disaster loan fund) for the financing of SBA's programs.

Section 4(c)(3) of the act authorizes appropriations to the two funds "* * * in such amounts as may be necessary * * *." However, with respect to the business loan and investment fund, the Congress has set limits on the amounts which may be used for the various programs by providing in section 4(c)(4) for limitations on the amounts of loans guarantees, and other obligations or commitments which may be outstanding at any one time from that fund.

When the Small Business Act was originally passed in 1954 ceilings on outstanding financial commitments by the agency were placed in the legislation to provide Congress with a check on the operations of the Small Business Administration. As these ceilings are reached SBA is required to come before the Congress to justify a new ceiling increase thus providing an automatic review of the agency's operation. The ceiling increases in section 1 represent neither an appropriation of funds nor an authorization for appropriations. The legislation merely allows SBA to increase its loan ceilings so that it may spend funds that it will obtain through the appropriation process or through repayment of prior loans. It also is the means by which Congress controls the extent of the Government's possible outstanding financial liability for the respective SBA programs within a given period.

It is necessary for the financing of SBA's programs that the ceiling figures in 4(c)(4) be raised from time to time as the programs approach the maximum levels. This results from a combination of medium term loan repayment, steadily increasing loan volume, and a recent need to depend more on the use of guaranteed loans.

Public Law 87-550, approved July 25, 1962 requires that SBA advise the Congress periodically of the ceiling increases necessary for the continuation of its programs, and that such advice include program needs for the fiscal year under consideration plus the two succeeding fiscal years. The committee in consideration of such advice from the SBA recommends approval of ceiling increases for the current fiscal year plus fiscal year 1975.

Section 2. During the subcommittee's consideration of S. 804 it was reported as section 2 and 3 of S. 1672.

In 1972 the Senate passed this general authority as part of the Disaster Relief Act. However, it was deleted in a House-Senate conference.

Section 2 consolidates and expands SBA's present authorities to make loans to small concerns to finance structural, operational, or other changes required in order to meet standards imposed by Federal laws, or by State laws enacted in conformity with Federal laws.

This section consolidates three subsections of the Small Business Act into a single section: the Coal Mine Safety Act of 1969 (subsection 7(b)(5) of the SBA Act), the Occupational Safety and Health Act of 1970 (subsection 7(b)(5)) and the Egg Product Inspection Act of 1970 (which also extended eligibility to small firms affected by the Wholesome Meat Act of 1967 and the Wholesome Poultry Products Act of 1968 (subsection 7(b)(6))).

This consolidation provides for a uniform approach and a single framework for the extension of economic disaster loans to small business firms to comply with new Federal environmental, consumer, pollution, and safety standards.

The interest rate proposed is at the cost-of-money to the Federal Government plus one-fourth of 1 percent. Committee studies indicate that such an interest rate would be comparable to the rate large corporations are able to obtain through tax-exempt bonds to finance their pollution control facilities.

All economic disaster loans made will be fully repayable to the Treasury with interest. These loans will not be made where money is available commercially. The interest rate is not a subsidized rate—it is at the actual cost of money to the Federal Government plus one-fourth of 1 percent premium. Because businesses will survive and expand as a result of these loans they will pay more tax money into the Treasury. The maximum amount loanable is $500,000.

Section 3 subsection (a) redesignates section 7(g) of the Small Business Act as added by section 3(b) of the Small Business Investment Act of 1972 as subsection 7(h) and subsection (b) conforms by changing 7(g) to 7(h) wherever it appears throughout the Small Business Act. During consideration by the committee it was discerned that there were two section 7(g)s. This technical amendment corrects the situation by designating the latter as 7(h).

CORDON RULE

In the opinion of the committee it is necessary to dispense with the requirements of subsection 4 of rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate in connection with this report.

[1] P.L. 85-536, 1958 (Small Business Act).

Mr. CRANSTON. Mr. President, I now yield to the distinguished Senator from Texas (Mr. TOWER) the ranking minority member of the subcommittee and the full committee who has been of great, great help in preparing and handling this legislation.

Mr. TOWER. Mr. President, I thank my colleague from California. I yield myself, on my own time, so that I will not intrude on his, such time as I may require.

The PRESIDING OFFICER. The Senator from Texas may proceed.

Mr. TOWER. Mr. President, S. 1672 is a good bill. The increasing demands made on the Small Business Administration justify the increase in the loan ceiling. The demands are meritorious.

The Small Business Administration has been one of the most successful Government agencies from the standpoint of being a stimulus to the economy. I believe that there is no way we could ever consider the SBA as simply a political boondoggle. It has been of great benefit to small businesses throughout the country. It was the SBA that took initiatives in minority business enterprises in trying to stimulate capital flow into minority businesses and to bring particularly the black and the Mexican-American ethnic minorities into the mainstream of the American free enterprise system.

I feel confident that by virtue of its past reputation and its past actions, our request here today for an increase in the loan ceiling will be met with favor by the Senate.

I urge adoption of the bill.

I should like to state, however, that I am aware of amendments relative to disaster relief which might be addressed to the bill today and would be hopeful that perhaps some of the sponsors of the amendments will reconsider offering them, in light of the fact that the administration has just sent down its Disaster Relief Preparedness Assistance Act of 1973, so that it seemed to me perhaps we should deal with disaster on a comprehensive basis, using the administration's recommendations as a working paper, at least; and, of course, refining and improving and adding our own input to that proposed legislation it seems to me that that would be a more orderly way to do business than with patchwork, amendatory provisions relative to disaster relief. Thus, Mr. President, I am hopeful that it can be considered in a different context and we will have extensive hearings on it.

I yield the floor.

AMENDMENT NO. 125

Mr. EAGLETON. Mr. President I call up my amendment No. 125 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

SEC. 4. Notwithstanding the provisions of Public Law 93-24, the Secretary of Agriculture shall continue to exercise his authority with respect to natural disasters which occurred after December 26, 1972, but prior to April 20, 1973, in accordance with the provisions of section 5 of Public Law 92-385 of such section was in effect prior to April 20, 1973.

Mr. EAGLETON. Mr. President, I ask unanimous consent that to correct a printing error on line 6 of the amendment, the word "which" be inserted between the words "section" and "was".

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

Mr. EAGLETON. So that it will read on line 6 "of such section which was in effect prior to April 20, 1973."

The PRESIDING OFFICER. The Senator has the right to modify his amendment, and the amendment will be so modified.

Mr. EAGLETON. Mr. President, the purpose of the amendment is to require the Department of Agriculture to make loans to farmers in areas which were hit by disasters prior to enactment of recent amendments to the disaster loan program—April 20, 1973; Public Law 93-24—on the same terms as are now being made by the Small Business Administration.

As it is, farmers in flooded areas of Missouri and elsewhere in the Mississippi River Valley are receiving only 5-percent loans from FHA with no forgiveness provision, while small businessmen in the very same areas benefit from 1-percent loans from the Small Business Administration with the first $5,000 forgiven.

Mr. President, this is an intolerable situation. It violates every standard of justice and fair play and is contrary to the understanding and intent of the Senate in passing the recent disaster relief amendments.

Legislative history in the Senate clearly bears this out. When the senior Senator from Texas (Mr. TOWER) offered his amendment to H.R. 1975, it was with the intent of putting FHA and SBA loans on exactly the same footing. I would like to read a few exchanges that occurred on the floor at that time. These exchanges are contained in the CONGRESSIONAL RECORD of March 28, 1973, between pages 10001 and 10004.

Mr. TOWER on introducing his amendment said:

In its present form, H.R. 1975 would create an inequity between disaster loans approved by the Small Business Administration. As presently drafted, the bill would amend the disaster loan authority of the Farmers Home Administration by deleting the loan cancellation provision and by increasing the interest rate from the present rate of one per cent per annum to a rate not to exceed five per cent per annum.

The amendment I offer today, Mr. President, will correct this inequity by applying the same provisions to disaster loans approved by the Small Business Administration. . . . What I am saying, Mr. President, is that we are simply trying to make the loan procedures and policy relative to SBA disaster loans consistent with those in this bill.

Further along in the debate, the Senator from Oklahoma (Mr. BELLMON) had this to say of the Tower amendment:

We should be treating rural and urban residents the same. The purpose and effect of the amendment of the Senator from Texas would be to accomplish that objective. I strongly support the amendment.

That statement was followed shortly by this question and answer exchange between Mr. BUCKLEY and Mr. TOWER:

Mr. BUCKLEY. I should like to ask a question of the Senator from Texas to make sure that I understand what his amendment proposes. It would affect only future loans from the SBA. Is that correct?

Mr. TOWER. That is correct.

Mr. BUCKLEY. I wanted to clarify that because it would be an act of unfairness to change the ground rules with respect to those who already have accepted loans.

Mr. TOWER. It would operate only on future loans.

Mr. BUCKLEY. I think the amendment has the virtue of symmetry. It would insure comparable treatment to victims of natural disasters although when we do approach disaster legislation on a more comprehensive basis I believe we may well need to distinguish between damage to homes and damage to crops produced on property.

The Senator from Tennessee (Mr. BROCK) had this to say of the Tower amendment:

I support this amendment for two or three basic reasons. First, in the sense of equity, as the Senator from Oklahoma has pointed out, I cannot justify treating urban areas with different kinds of programs than rural people have.

The Senator from New Mexico (Mr. DOMENICI) had this to say:

Mr. President, it is only proper that we make the entire law fair and that farmers and the city dwellers have the full benefit of the law though we do not have a different law for those who live on farms and those who live in the city. If we are going to have the $5,000 forgiveness, than they should apply in all situations, and not just in some situations.

As these exchanges make very clear, the purpose of the Senate was to put the two programs on exactly the same footing and, further, to avoid changing ground rules in the middle of the game by having the new provisions apply only to future disasters.

Mr. President, I ask unanimous consent that an opinion prepared by the American Law Division of the Library of Congress supporting this reading of legislative intent be printed at this point in my remarks.

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

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., May 14, 1973.

To: Honorable Thomas F. Eagleton
(Attention of Jack Lewis).
From: American Law Division
Subject: Disaster Relief Under P.L. 93-24

This is in response to your request for information as to the effect on coverage of disaster victims as a result of the passage of P.L. 93-24 which amends the emergency loan program under the Consolidated Farm and Rural Redevelopment Act, 7 U.S.C. 1921 et seq., and the similar program under the Small Business Act, 15 U.S.C. 636(b) (1), (2) and (4). Specifically you inquire whether the 1% interest rate and $5000 forgiveness provisions of prior law would be applicable to the residents of areas in which disasters occurred prior to the effective date of P.L. 93-24 but subsequent to December 27, 1972, and which have been declared disaster areas by the President. The mentioned declarations also were made prior to the effective date of the law.

As introduced, H.R. 1975 dealt only with the administration of the Farmers Home Administration emergency loan program. On

December 27, 1972, the F.H.A. ceased receiving and processing loan applications on the ground that the liberal interest and forgiveness provisions of the law had resulted in unexpectedly high demands for such loans and were proving to the inflationary. The debates on the floors of both Houses indicate agreement that the terms of the loans under the program were too liberal but concern was raised that the abrupt cut-off date produced inequities with regard to disaster victims who had not filed applications prior to December 27. As a result, the House passed the Bergland Amendment which "grandfathered" vested claims for 18 days after the effective date of the Act. *Congressional Record,* February 22, 1973, The Senate concurred *Congressional Record,* March 28, 1973, 9999–10000. The Senate also perceived a further inequity in the emergency loan program in that the bill would allow the Small Business Administration's similarly liberal loan provisions to remain in effect, thereby discriminating in favor of urban disaster victims. The Tower Amendment, which made loans approved by SBA on or after the date of enactment of the bill subject to the same provisions as those applicable to FHA loans, was passed to rectify this situation by making the terms of the two programs parallel. *Congressional Record,* 10001–10005. In response to questioning, Senator Tower agreed that his amendment would only apply to future loans.[1] There was no discussion in either House at this time as to applicability of then-existing law to disasters which might occur between December 27 and the effective date of the legislation.

In conference, the Tower amendment was adopted with a modification which gives SBA applicants an unlimited period within which to file applications for loans in areas declared disaster areas between January 1 and December 27, 1972.

Both Houses adopted the conference recommendations without further amendment. However, a further question of "inequity" was raised by House Manager Poage who noted that although FHA had stopped giving 1% forgiveness loans on December 27, SBA had continued to approve such loans, a practice which would result in a benefit to urban residents. The manner in which a resolution of the problem was reached is indicated in the following excerpts from the RECORD of April 12, 1973, 12188–12189:

"Nevertheless, the conferees on the part of the House remain concerned that after we had resolved the differences of the two bills in conference we were left with an unfair situation whereby the potential recipients who were to be funded by the Small Business Administration loans at 1 percent subsequent to December 27 and prior to date of enactment of the bill would be better off than the rural resident who would have been offered, at best, the opportunity to receive only 5 percent loans without the forgiveness feature.

"Accordingly, I discussed the problem with a former member of this body, the able Administrator of the Small Business Administration, Mr. Kleppe, and with representatives of the President, and we have reached a solution that will take care of the most glaring inequities of the two loan programs during the period between December 27 and the date of enactment of H.R. 1975. Rather than describe it in my own words, I will read herewith the letter received from Mr. Kleppe on Tuesday announcing an administration policy change affecting the emergency loan program."

[1] An amendment to the Tower proposal also "grandfathered" rights of SBA applicants for 18 days.

SMALL BUSINESS ADMINISTRATION,
Washington, D.C., April 10, 1973.

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

DEAR MR. CHAIRMAN: The purpose of this letter is to express the Administration's intentions with respect to disaster loans to be made by the Small Business Administration for disaster damage sustained by residents of rural areas.

Effective immediately, SBA will accept disaster loan applications for damage sustained by farmers and other residents of rural areas as a result of all disasters declared by the President since December 27, 1972. Assistance will be made available to such borrowers, however, only for damage sustained to dwellings and household contents. Such loans made by SBA with respect to disasters occurring prior to the date of enactment of H.R. 1975 will carry the terms and benefits provided by Public Law 92–385, which include cancellation of up to $5,000 and a rate of interest of 1 percent per annum. Of course, these present benefits will apply to *all* loans made in such areas, whether the loans themselves are made prior to or after the date of enactment.

SBA is not in a position to refinance existing Farmers Home Administration mortgages. When a rural area resident has an FHA mortgage, however, SBA will contact the local FHA representative and attempt to work out an equitable financing package for the homeowner. Every effort will be made by both agencies to restore the applicant to pre-disaster condition with no increase in periodic installment payments.

When a loan to a farmer is involved, SBA will determine the extent of the damages sustained and the amount of loan which the applicant is eligible to receive. Since the farmer may well be dependent upon FHA or a Production Credit Association for production loans, and since FHA or the PCA may hold mortgages on the farm itself, SBA will consult with the local FHA representative to work out a total financing package which will permit the farmer to continue to operate.

The Office of Management and Budget has expressed its concurrence in the foregoing arrangements.

Sincerely,

THOMAS S. KLEPPE,
Administrator.

The other amendments adopted by the Senate would have given applicants for SBA loans 18 days after enactment of the bill to apply for such loans at the old rate. The conferees of the other body agreed to recede on the amendment because the substitute language for the amendment No. 4 would give applicants an unlimited period within which to file their applications.

Mr. Speaker, this bill represents the best available compromise to get a sound emergency loan program into operation immediately. Toward that end, I think it does a good job.

Mr. Speaker, I yield to the gentleman from California (Mr. TEAGUE) such time as he may consume.

Mr. TEAGUE of California. Mr. Speaker, I rise in support of the conference report on H.R. 1975. As the distinguished gentleman from Texas has pointed out, this conference report represents a very constructive and necessary legislative effort to meet the pressing credit needs of many people who have been victims of natural disasters throughout the Nation.

I would draw the attention of the House to the fact that this conference report has been approved by all the conferees from the House and the other body.

I am also confident that it will be signed into law by the President.

The main thrust of this legislation is to repeal the current provisions of law that apply to both the Small Business Administration and the Farmers Home Administration with respect to loans at 1 percent with a $5,000 forgiveness. In lieu of these provisions which recent experience tells us were, in many cases, overgenerous, H.R. 1975 proposes emergency loans at a flat 5-percent interest rate.

There are two key dates that are involved in this legislation. The first is December 27, 1972, the date the President terminated the secretarially designated disaster program and the second is the date of enactment of this bill.

As explained by the chairman, the treatment of disaster victims before December 27, 1972, during the period December 27, 1972 and date of enactment, and after date of enactment will be somewhat different.

The conference committee, however, has tried to adjust these differences in an effort to achieve equity for victims whose losses occurred during each of these three periods. As Members will recall, during House debate on this bill, our colleague from Minnesota (Mr. BERGLAND) offered an amendment which was later adopted to allow an 18-day "window" for eligible borrowers in certain secretarially declared disaster areas to obtain the benefits of the $5,000 forgiveness, 1 percent loan program. In the other body an amendment was adopted to terminate $5,000 forgiveness, 1 percent loans through the Small Business Administration. The conference report brings back to the House both provisions. Thus, the Bergland amendment, which is estimated to result in an outlay of some $300 million—of which approximately $180 million would be forgiveness—is slated to become law.

In the future, however, loans made by both FHA and SBA will be at a flat 5-percent rate, with no forgiveness.

Finally, Mr. Speaker, as the gentleman from Texas has pointed out, the administration has pledged to make loans to farmers and other rural residents in Presidentially declared areas for disasters that occurred during the hiatus period between December 27, 1972, and the date of enactment of this bill.

A similar question as to the effect of the bill on the so-called "hiatus period" also arose in the Senate. Senator McGovern dealt with it as follows (Congressional Record, April 12, 1973, 12059):

"Mr. President, the question has been raised about the effect of this bill on natural disasters which have struck in the past few days, such as the devastating floods in the Missouri and Mississippi Valley.

"The amendment to this bill would repeal the portion of the Small Business Administration loan program which now grants 1 percent loans and $5,000 forgiveness, but it makes that termination effective with enactment. It is clear that any disasters which occur before the enactment of this legislation would be covered under the terms of existing law, not the provisions of this bill.

"I just want the record to show clearly that the floods in the lower Mississippi River Basin and the lower Missouri River Basin are covered under existing law, with the more liberal features. I am told that the assistant general counsel of the Small Business Administration concurs with this view, and interprets this bill as saying that these cases would not be affected by enactment of the legislation."

Although Senator McGovern's remarks would appear directed solely to the Tower amendment, the comments of Members Poague and Teague seem to indicate an understanding with the Executive branch that disaster occurring during the hiatus period would be covered by the more liberal provisions of the then-applicable laws. Moreover,

it may be argued that the acceptance of the Tower amendment was a clear indication that the Congress meant to make the FHA and SBA loan programs consonant with and parallel to each other and intended to avoid a situation in which applicants under one program would be treated differently or more favorably than applicants under the other. The sense of the debates taken as a whole indicates this was meant to be the case, both during the hiatus period and after the effective date of the legislation.

Thus, there would appear a substantial basis for arguing that residents of areas in which disasters occurred and which were declared disaster areas by the President, prior to the effective date of P.L. 93-24, are entitled to apply for, and receive, loans under the more favorable provisions of prior law.

MORTON ROSENBERG,
Legislative Attorney.

Mr. EAGLETON. Mr. President, I will read here only the concluding paragraphs:

Although Senator McGovern's remarks would appear directed solely to the Tower amendment, the comments of Members Poage and Teague seem to indicate an understanding with the Executive branch that disaster occurring during the hiatus period would be covered by the more liberal provisions of the then-applicable laws. Moreover, it may be argued that the acceptance of the Tower amendment was a clear indication that the Congress meant to make the FHA and SBA loan programs consonant with and parallel to each other and intended to avoid a situation in which applicants under one program would be treated differently or more favorably than applicants under the other. The sense of the debates taken as a whole indicates this was meant to be the case, both during the hiatus period and after the effective date of the legislation.

Thus, there would appear a substantial basis for arguing that residents of areas in which disasters occurred and which were declared disaster areas by the President, prior to the effective date of P.L. 93-24, are entitled to apply for, and receive, loans under the more favorable provisions of prior law.

Unfortunately, that intent was not realized in practice. The final language of the statute, while very clear with respect to SBA loans, left the provisions concerning FHA loans vague and subject to interpretation.

The result is that a small farmer in Missouri who was wiped out by the flood is eligible for only a 5-percent loan with no forgiveness feature. But the man who sells him feed and equipment right next door can get a 1-percent loan with the first $5,000 forgiven. Even more inequitable, the farmer who raises cattle can receive only a 5 percent loan to help repair his losses while the feedlot operator to whom he sells the cattle qualifies for the far more generous SBA loan.

Very simply, my amendment would require the FHA to adopt the SBA interpretations of the new law and to make available to qualified applicants in areas hit by disasters prior to April 20, 1973, loans at the old 1 percent interest rate with the 5,000 forgiveness feature.

The amendment is supported by the Missouri Farm Bureau and the Missouri chapter of the National Farmers Organization.

I think it is essential that Congress take this step to relieve the deep sense of injustice felt by those in the flooded States who have fallen afoul of this bureaucratic conflict. Congress cannot allow to stand a policy which makes second-class citizens of our farmers.

Mr. STEVENSON. Mr. President, will the Senator yield for a question?

Mr. EAGLETON. I yield.

Mr. STEVENSON. Rains continuing over a 2-month period have caused flooding in Missouri. The flooding began in early March.

On the weekend of April 20-22, heavy rainfall caused further flooding of already swollen rivers throughout Illinois.

On April 20, President Nixon signed Public Law 93-24, which changed the terms of the disaster loan program. The question immediately arose: Will those people who suffered flood damage on April 20, 21, and 22 be given less generous assistance than their neighbors who suffered damage just a short time before?

Small Business Administration disaster officials said "No." They took the position—and I think it is the correct one—that the latest damage was proximately caused by the flooding that had been occurring for 6 weeks. They consider the damage done on the weekend of April 20-22 to be a part of a major disaster that began earlier.

These officials are, therefore, making disaster assistance loans on the terms that were in effect prior to the enactment of Public Law 93-24. That is, all Illinois flood victims, including those who suffered losses on April 20-22, are entitled to 1 percent loans with a $5,000 forgiveness clause.

Under the Senator's amendment, would the Farmers Home Administration take the same position as the Small Business Administration with respect to those damaged on the weekend of April 20-22?

Mr. EAGLETON. Very definitely, yes. We have had similar problems in Missouri. It is my belief and position that if the disaster began prior to the April 20 enactment of Public Law 93-24, as it did in Illinois and Missouri, then my amendment would require the Farmers Home Administration to make loans for all damage occurring in connection with that disaster under the pre-Public Law 93-24 terms. All victims of a disaster that extends over such a period of time should be treated alike.

Mr. President, I wish to make one final statement to make it abundantly clear what the Senator from Illinois and I are talking about. Disasters that occurred in Illinois and Missouri commenced prior to April 20 of this year. There was an addition to those disasters when new rain aggravated previously existing situations and made them worse. It is our firm intent in this amendment to treat FHA loan applicants on the same and more generous basis as the Small Business Administration is treating its loan applicants.

Mr. STEVENSON. I thank the Senator from Missouri. With that assurance, that the FHA loan applicants will be treated on the same and more generous basis as SBA is treating its loan applicants, I am satisfied. I commend the Senator in his support of his very sound amendment.

Mr. CRANSTON. Mr. President, the amendment offered by my colleague from Missouri (Mr. EAGLETON) would attempt to correct an existing inequity between the disaster loan programs administered by the Farmers Home Administration and the Small Business Administration. This inequity arises out of differing interpretations of the recently enacted disaster relief amendments—Public Law 93-24—where the SBA has been permitting loans at the old 1 percent interest rate with $5,000 forgiveness in the case of disasters occurring prior to the date of enactment of the new amendments on April 20, 1973. The FHA, on the other hand, has been operating under a stricter interpretation of the new law and has been offering only 5-percent loans except in the case of certain disasters that occurred in 1972. I agree with Senators EAGLETON and SYMINGTON that this inequity should be corrected.

As Senator EAGLETON pointed out in his remarks of May 10, this bureaucratic inequity is particularly glaring in the case of the unprecedented flooding of the Mississippi River this spring which has left thousands homeless and economically damaged. It makes little sense to treat a flood victim who is a farmer any differently than a flood victim who is a small businessman simply because two Federal agencies disagree. If we do not correct this inequity we will be adding to unneeded animosity between the small businessman and the farmer.

This amendment would also be extremely helpful to California farmers, and particularly the California citrus industry which suffered a devastating frost on January 3, 4 and 5. It has been estimated that as much as 65 percent of the naval orange crop was affected by this killer frost, with many farmers losing their entire crop. Only 30 percent of the California citrus industry is covered by Federal crop insurance, leaving the remaining 70 percent to somehow fend for themselves. Senator EAGLETON'S amendment would enable them to benefit from the more generous disaster loan provisions that were eliminated by the recent disaster relief amendments, signed into law on April 20.

I would like to ask the distinguished Senator one question. The Farmers Home Administration matters fall within the jurisdiction of the Committee on Agriculture and Forestry. Has the Senator checked out the amendment with that committee?

Mr. EAGLETON. Yes, we have discussed it with the Agriculture Committee staff. We heard no objections.

Mr. CRANSTON. As far as the Senator from California is concerned I am prepared to accept the amendment, but first I would like to hear from the Senator from Texas.

Mr. TOWER. Mr. President, may I say for the minority that the amendment is quite acceptable to me. I can hardly quarrel with the logic of the Senator from Missouri since he quoted me considerably in his statement. As he said, it is consistent with the policy already established in this body. In all equity, the amendment should be adopted. I do support the amendment.

Mr. EAGLETON. I thank the Senator from California and the Senator from Texas.

FLOOD VICTIMS SHOULD RECEIVE EQUAL TREATMENT UNDER EMERGENCY LOAN PROGRAM

Mr. SYMINGTON. Mr. President, the amendment Senator EAGLETON and I have offered would provide better and more even-handed relief for farmers and businessmen who are victims of the Mississippi floods.

Only now are flood waters beginning to recede in our State, and some project that the Mississippi River may remain above flood stage until the end of this month.

Victims of this terrible disaster are returning to their homes, businesses, and farms to salvage what remains and to make the best estimates of the losses which they must attempt to replace.

This hardship is needlessly compounded when the two principal Federal agencies which provide disaster assistance offer loans for reconstruction under two different sets of guidelines.

As the law is now interpreted, those homeowners and businessmen who apply to the Small Business Administration for disaster assistance are eligible for loans which bear a 1-percent interest rate and for which the first $5,000 of the face amount can be forgiven.

At the same time, a farmer who lives in the same community and may even deal with the businessman receiving SBA assistance is told by the Farmers Home Administration that he must pay 5-percent interest and there is no forgiveness of any amount on his loan to replace crop and equipment losses.

Since December 27, 1972, when this administration terminated the FHA emergency loan program, there has been no operating Federal loan program to which farmers could turn for assistance to restore farm related disaster losses.

The Congress, in effort to make some form of disaster loan available, passed legislation which the President signed on April 20. This measure raised disaster loan rates from 1 to 5 percent and eliminated the $5,000 forgiveness feature of loans made by the Small Business Administration and the Farmers Home Administration.

Unfortunately, in connection with the Mississippi floods, the more favorable loan rates were interpreted to apply only to the SBA disaster loans, while the higher rates were applied by the administration to the FHA emergency loan program.

Farmers are justifiably disturbed by this inequitable treatment. As Senator EAGLETON has ably pointed out, a farmer in our State who raises cattle is being told that he is entitled to a 5-percent loan with no forgiveness feature. After suffering damage in the same flood, the feedlot operators to whom the farmer sells cattle, qualify under SBA for the 1-percent loan, and also are eligible for $5,000 forgiveness.

We have been told that SBA had considered a recommendation to open the more generous loan assistance to farmers during the interim period, but chose to decline because it would have been contrary to administration policy.

This amendment would bring both disaster relief programs into conformity for victims of floods or other disasters which occurred before April 20.

The flood waters which have ravaged our State for so many weeks spared nothing in their path, and have brought hardship and suffering to farmers and businessmen alike. Surely every effort to help rebuild these losses must be evenhanded and fair to all recipients. This amendment would correct the injustice which otherwise would result.

The PRESIDING OFFICER. Does the Senator from Missouri yield back his time?

Mr. EAGLETON. I yield back my time.

Mr. CRANSTON. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WILLIAMS. Mr. President, I call up the amendment that was introduced on behalf of myself and the Senator from Indiana (Mr. BAYH).

The PRESIDING OFFICER. The amendment will be stated.

Th legislative clerk read as follows:

At the end of the bill, add the following:

SEC. 4. Section 7(b)(4) of the Small Business Act is amended by inserting before the semicolon at the end thereof the following: ": *Provided*, That loans under this paragraph include loans to persons who are engaged in the business of raising livestock (including but not limited to cattle, hogs, and poultry), and who suffer substantial economic injury as a result of animal disease".

Mr. WILLIAMS. Mr. President, as I indicated, the amendment I am offering is on behalf of myself and the Senator from Indiana (Mr. BAYH). It is prompted by a disaster that hit in New Jersey, Indiana, and one or two other States, and it involves an epidemic of cholera that visited the hog stocks of farms in those States. This was a disaster to the farmers and the feedlot operators dealing in hogs.

Early last fall, hog cholera of epidemic proportions broke out in my State of New Jersey and resulted in the loss of at least 18 herds of hogs—approximately 30,000 animals.

The disease has had a devastating impact on many hog farmers, their employees, and families in my State where, regrettably we are facing the forced closing of an average of one farm each day.

Furthermore, I understand that hog cholera over the last year has hit herds in Georgia and Indiana, where nearly 20,000 animals had to be destroyed.

Mr. President, it is my understanding that when an outbreak of hog cholera occurs, all the animals in the affected area are quarantined and that when the infection begins to spread in a herd, the entire herd must be destroyed.

In other words, that individual's entire business is lost until the herd can be replaced.

Clearly, that is a substantial economic blow for these small farmers.

Under existing Department of Agriculture regulations and pursuant to a special New Jersey program, these individuals who lost their hogs have been compensated for each animal that was destroyed.

This assistance has provided the affected farmers with funds necessary to replace their herds and has been most important in this respect.

However, compensation for the loss of a herd is only part of the problem.

When such a disaster strikes, the farmer also loses his source of operating capital and unless he has saved a significant amount of cash, which I believe is exceedingly difficult today in a small agricultural business with its tight profit margins, he must borrow large amounts of money to clean and disinfect remaining animals, pay his employees, meet outstanding contracts, and feed the new herd until it was matured.

Obviously, these people need an outside source of funds.

To a limited extent, money is available from commercial banks at current commercial rates.

Unfortunately, in too many cases, this high rate for money at such a critical time does not realistically allow small farmers to take advantage of this kind of financial assistance which would provide them the working capital that is necessary to carry them through to the marketing of their next herd.

As soon as I understood the magnitude of this calamity in New Jersey, I wrote to the Department of Agriculture urging them to designate certain counties in New Jersey as disaster areas and make the farmers eligible for disaster relief.

However, the Department of Agriculture initially responded that their disaster relief loans only could be extended in instances where animal disease resulted from abnormal weather.

I was subsequently informed that the Farmers Home Administration disaster relief program had been discontinued.

In addition, I was told by the Department of Agriculture that these individuals in New Jersey were considered businessmen because they produced neither half their livestock nor half their feed and therefore they did not qualify for disaster relief loans even if they were available.

I have presented this case and all of its merits to the Small Business Administration and to the Department of Agriculture. The farmers of New Jersey, Indiana and Georgia did not receive this relief. I presented the matter to the chairman of the Committee on Banking, Housing, and Urban Affairs (Mr. SPARKMAN). I have a letter in which he states his feeling that, within the Small Business Administration jurisdiction of today and the history of certain provisions of the act, it certainly should be covered; but it has not been covered. I presented the same evidence to the Senator from Georgia (Mr. TALMADGE), the chairman of the Committee on Agriculture and Forestry. Again it is his feeling that it should be covered. But, Mr. President, it has not been covered. That is why the Senator from Indiana and I have proposed this amendment.

I wrote to the Small Business Administrator, who replied that he could not act until the Department of Agriculture

"formally declares New Jersey a disaster area" and that only this declaration "would automatically trigger SBA's economic injury disaster loan program. Small businesses would be eligible for loans for economic injury suffered as a result of the cholera epidemic."

I ask unanimous consent that a copy of Administrator Kleppe's letter of December 8, 1972, be included in the RECORD at this point.

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

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, D.C., December 8, 1973.
Hon. HARRISON A. WILLIAMS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: Thank you for your inquiry of November 29, 1972, on behalf of Gloucester County, New Jersey, residents affected by the cholera epidemic of pigs.

We conducted a thorough investigation of the epidemic and found that the Department of Agriculture and the State of New Jersey are bearing the responsibility for relief. Farmers and commercial feed yards suffering loss of hogs will be reimbursed at the current market value of their swine, with the Federal Government paying 75 percent of the value of the animals and the State of New Jersey the balance.

Under the purview of its Act, the Small Business Administration is restricted at this time from making loans for economic injury to affected businesses in New Jersey. However, if the Department of Agriculture formally declares New Jersey a disaster area, this would automatically trigger SBA's economic injury disaster loan program. Small businesses would be eligible for loans for economic injury suffered as a result of the cholera epidemic. These loans would bear an interest rate of 3 percent with no forgiveness feature.

We appreciate your interest in the Agency's disaster program. If we can be of assistance in any other matter, please let us now.

Sincerely,
THOMAS S. KLEPPE,
Administrator.

Mr. WILLIAMS. Thus, it appears that the hog farmers are caught in the middle.

Mr. President, I continued to press this issue and with the help of Senator TALMADGE, the distinguished chairman of the Senate Agriculture Committee, and his fine staff, discovered that the Small Business Act includes a provision for loans in the case of so-called product disaster.

This paragraph, section 636(b)(4) of title 15 of the United States Code appears to apply perfectly to the problems faced by hog farmers.

It states that the Administrator can make loans:

To assist any small business concern in reestablishing its business if the Administration (SBA) determines that such concern has suffered substantial economic injury as a result of the inability of such concern to process or market a product for human consumption because of disease or toxicity occurring in such product through natural or undetermined causes.

Furthermore, the legislative history on this section indicates a clear intention to extend these product disaster loans to small business concerns that suffered economic injuries from disasters other than those caused by absences or excesses of rain. I ask unanimous consent that the pertinent section of the House report on the 1964 Small Business Act amendments be included at this point.

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

There appears to be no equitable reason for excluding from SBA's disaster assistance program small businesses that suffer economic injury from disasters other than those caused by the absence or excesses of rain. Such calamities as earthquakes, hurricanes, fires, storms, and freezing, as well as those resulting from the marketability of fish by reason of such causes as toxicity of the waters, would certainly seem to have an equally valid claim for disaster aid. The proposed revision would make aid available to small business concerns suffering economic injury due to all natural or undetermined causes.

Mr. WILLIAMS. Mr. President, in my judgment, this section of the law gives the SBA the authority to provide product disaster loans to those concerns which lost their herds of livestock.

I wrote to Senator JOHN SPARKMAN, the distinguished chairman of the Banking, Housing and Urban Affairs Committee which has legislative jurisdiction over the SBA and sought his interpretation of this particular section of the law.

I am pleased to note that his interpretation supported mine.

I ask unanimous consent that Senator SPARKMAN's letter of April 6 and Senator TALMADGE's letter of April 12 also be included in the RECORD at this point.

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

COMMITTEE ON BANKING,
HOUSING AND URBAN AFFAIRS,
Washington, D.C., April 6, 1973.
Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Labor and Public Welfare, Washington, D.C.

DEAR MR. CHAIRMAN: I appreciate being informed of the difficulties facing New Jersey hog farmers who have been forced to destroy their herds which had contracted hog cholera and the Small Business Administration's reaction to this situation. I understand that farms in Indiana and Georgia have also been stricken with this disease.

It is regrettable that so much confusion exists on this particular issue and that the affected hog farmers have been unable to secure assistance from the federal government to meet their operating expenses during the period while they replenish their herd and market it.

In looking at the sections of the U.S. Code which you discussed—Paragraph 636(b)(4) of Title 15—I would maintain that the law clearly states that the Small Business Administration can provide assistance to concerns which have suffered economic losses because they have been unable to market their product as a result of disease occurring through natural causes. This paragraph describes the plight of New Jersey's hog farmers. It appears to me that Mr. Kleppe's response of December 12, 1972, refers to other sections of paragraph 636 and is less closely related to the situation we are discussing.

I encourage you to press this matter with SBA and keep me informed of any developments as I am very concerned about the manner in which SBA interprets this provision of the law.

With best wishes, I am
Sincerely,
JOHN SPARKMAN,
Chairman.

COMMITTEE ON AGRICULTURE
AND FORESTRY,
Washington, D.C., April 12, 1973.
Hon. HARRISON A. WILLIAMS, Jr.,
U.S. Senate, Washington, D.C.

DEAR PETE: Thank you for your letter concerning the hog cholera epidemic in New Jersey.

The staff of the Committee on Agriculture and Forestry has informed me of the discussions they had with your staff about the attempt to qualify these hog producers for emergency loans. I understand that the U.S. Department of Agriculture does not make loans to feed lot operations such as the ones that you have in mind in New Jersey because they do not fit the USDA's definition of "farmer" under the Emergency Loan legislation. However, I know that these feed lots badly need emergency loans in order to resume their operations. It seems to me that Title XV, Paragraph 636(b)(4) of the U.S. Code is quite clear. The Small Business Administration has the authority to assist your feed lot operators without any action from the U.S. Department of Agriculture. I cannot understand how the Administrator of the Small Business Administration could make a contrary finding.

I hope you are successful in getting the Small Business Administration to take action on behalf of the New Jersey farmers, and I will be glad to assist in any way possible.

With every good wish, I am
Sincerely,
HERMAN E. TALMADGE,
Chairman.

Mr. WILLIAMS. Mr. President, with the benefit of Senator SPARKMAN and Senator TALMADGE's counsel on this issue, I again wrote to Administrator Kleppe nearly 1 month ago to urge him to provide funds under this section to these beleaguered farmers.

Two days ago, I received an interim reply saying that his Office of General Counsel was asked for an interpretation of this section of the statute and that I would be informed of their decision at some unspecified date in the future.

I am offering this amendment today because the people who have lost their animals over the last 8 months cannot wait any longer for Federal assistance.

There obviously is too much confusion about this issue and every indication is that people who raise livestock for human consumption have been effectively excluded from disaster relief programs which are designed to assist during or after such calamities.

In addition, I understand that millions of chickens in California were destroyed last year because of Newcastle disease, yet people were not eligible for any Federal assistance or loans to provide operating capital while they disinfected their property and developed new flocks.

And, of course, there are other diseases like brucellosis, a bacterial infection among dairy cattle, which wipe out entire herds.

However, Federal aid to provide operating capital presently is not extended to any of these persons.

Mr. President, I believe that my amendment, which states that "loans under this paragraph include loans to persons who are engaged in the business of raising livestock—including but not limited to cattle, hogs, and poultry—and who suffer substantial economic injury as a result of animal disease," will fill this gap in the law and assist those people

who have suffered from the effects of these livestock diseases and need our help.

Mr. CRANSTON. Mr. President, the amendment offered by the distinguished Senator from New Jersey would provide assurance that section 7(b)(4) of the Small Business Act applies to persons engaged in the business of raising livestock, including poultry, who suffer substantial economic injury as a result of an animal disease. In effect, farmers who have been economically hurt as a result of an animal disease would be clearly eligible for loan assistance from the Small Business Administration.

This amendment would be especially helpful to the poultry and egg industry in southern California, which suffered devastating economic losses over the past year because of the rapid-fire spread of exotic Newcastle disease. This disease, according to the USDA, is now pretty much under control, but the economic impact continues to be felt. Between December 1971, when Newcastle disease was first discovered, and the present time, 11.47 million chickens have been "depopulated." Nine and one-half million of these were layers, representing 35 percent of the commercial egg industry in southern California. Most of the poultry farms that are now unable to obtain the necessary capital to get back into business are small family farms. But even the larger enterprises that have managed to stay in business have suffered tremendous economic losses.

Those whose flocks were found to be infected with exotic Newcastle disease were indemnified by the Federal Government for every chicken that was destroyed. Most farmers, however, have complained that the indemnification program was inadequate because the costs of getting back into production, purchasing feed, and having one's operating capital tied up for 9 to 12 months were substantially greater than what they were paid through indemnification.

Even worse, however, are the many whose flocks were not found to be infected but who were within the quarantine area. In effect, these people were told that their business must cease outside the quarantine area—where their markets were—until the quarantine was lifted. Yet they received no compensation whatever. Turkey ranchers, hatcheries and those whose chickens are being raised for sale rather than egg-laying were especially hurt in this way.

I think that the Senator's amendment to clarify 7(b)(4) of the Small Business Act will rectify a most unfortunate situation and I am happy to support it.

I yield now to the Senator from Texas.

Mr. TOWER. Mr. President, I should just like to ask a question of my distinguished friend from New Jersey. He parenthetically includes cattle, hogs, and poultry and notes that it is not limited to that.

Mr. WILLIAMS. Yes.

Mr. TOWER. I would like to ask the Senator, just to point out an example, if it would include a herd of horses that had been decimated by Venezuelan equine encephalomyelitis?

Mr. WILLIAMS. In my judgment, that is exactly a situation that would be covered. We did specify three areas that we know have had epidemics of disease—hogs, cattle, and poultry. The disease that has come to be recognized among dairy herds is brucelosis. I know that is a situation within the intention of our amendment. The encephalomyelitis problem that visits horses would be in the same category, certainly.

Mr. TOWER. I thank the Senator from New Jersey. Actually, it is my view that these matters should probably be included in some form of comprehensive agricultural legislation, but in the absence of such specific legislation, we have to deal with the matter. Therefore, I am happy to support the amendment of the Senator from New Jersey, and I express the hope that this matter will be taken up more fully within the Committee on Agriculture and Forestry in some sort of program device to deal with this kind of problem.

Mr. WILLIAMS. I thank the Senator.

I appreciate the graciousness of the Senator from Ohio, who, I know, has been waiting for recognition. I appreciate his waiting until we could have the discussion we have just had.

Mr. TAFT. Mr. President, I commend our colleague from New Jersey. I know that in my own State hog cholera has been a great problem, and I know that his amendment should help our situation and be extremely beneficial.

Mr. BAYH. Mr. President, in 1972 there was a rather severe outbreak of hog chlorera in Indiana. As of December 6, 19,567 hogs had been killed to prevent the spread of the disease. The Federal Government paid a total of $631,192 in indemnities to affected Indiana hog producers, and a national emergency was declared for the area.

Many of these hog producers now face a delay of a year to 18 months before they will be able to return their farms to full producing capacity. During the delay, the farmer must continue to pay overhead costs such as taxes on, and maintenance of, his buildings, and wages for the employees whose assistance he will need once the farm is again in full production. For those farmers who have plowed past profits back into the farm rather than accumulating savings for use in emergencies, this past year has been a traumatic one, economically.

Since December, I have been urging the Department of Agriculture to liberalize indemnity payments for victims of hog cholera. I have pointed out repeatedly that poultry farmers in California whose flocks were infected last year with exotic Newcastle disease have been paid indemnities which are much higher than those paid to hog producers. The discrepancy between payments is very unfair because hog farmers face as long a delay as poultry farmers before they can get back into business. Despite the Department's attempt to justify the discrepancy between payments, the fact of the matter is that the Department has declined to give one producer desperately needed financial assistance to get him back on his feet, while paying another group of producers generous payments designed to compensate them for lost profits during the time needed to get back in full production.

I have drafted legislation (S. 1683) designed to provide hog producers with the same kind of assistance as that given to poultry producers, and have asked the Senate Agriculture Committee to attach the legislation to this year's Agriculture Act. Unfortunately, the committee decided not to attach my bill as an amendment to the farm bill because the Department successfully argued that it would be too expensive. While I am also concerned about the question of expense, I cannot understand why the Department incurred the initial expense of paying poultry producers for lost profits if it was not prepared to treat livestock and pork producers in the same way. Therefore, I intend to present my bill calling for equitable treatment of poultry and swine producers to the Senate during debate on the Agriculture Act.

However, in the meantime, the administration could be helping these farmers by providing loans to help them get back into business. I am pleased to join with my distinguished colleague from New Jersey in urging the Senate to specify that the Small Business Administration may make loans to persons who are engaged in the business of raising livestock—including but not limited to cattle, hogs, and poultry—and who suffer substantial economic injury as a result of animal disease.

I urge the Senate to pass this amendment, and I urge the Small Business Administration to provide loans to those who are in need of them. In a year of meat shortages and high prices, the Government should do everything possible to encourage producers of meat to stay in business despite the threat of epidemics of animal disease.

Mr. CRANSTON. Mr. President, I am prepared to yield back my time.

Mr. WILLIAMS. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment of the Senator from New Jersey is yielded back.

The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 138

Mr. TAFT. Mr. President, I call up my amendment No. 138, and ask unanimous consent that the names of the senior Senator from Michigan (Mr. HART), the junior Senator from Hawaii (Mr. INOUYE), and the junior Senator from Colorado (Mr. HASKELL) be added as cosponsors of the amendment.

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

The amendment will be stated.

The legislative clerk read the amendment (No. 138) as follows:

The Senator from Ohio (Mr. TAFT) for himself and other Senators, proposes an amendment identified as No. 138.

Amendment No. 138 is as follows:

At the end of the bill add the following new section:

SEC. 4. (a) The second paragraph following the numbered paragraphs of section 7(b) of the Small Business Act is amended by striking out the following: "and prior to July 1, 1973,".

(b) Clause (D) of the second paragraph following the numbered paragraphs of section 7(b) of the Small Business Act is amended—

(1) by striking the "and" at the end of subclause (i);

(2) by striking out "July 1, 1973" in subclause (ii) and inserting in lieu thereof "April 20, 1973";

(3) by striking the period at the end of subclause (ii) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new subclause:

"(iii) with respect to a loan made in connection with a disaster occurring on or after April 20, 1973, notwithstanding the provisions of Public Law 93-24, the total amount so canceled shall in no case exceed $2,500, and the per centum of the principal of the loan to be canceled shall be reduced by 4 for each $1,000 by which the borrower's income exceeds $10,000, but such per centum to be canceled shall not be less than 20 unless the total amount so canceled would otherwise exceed $2,500. For the purpose of this subclause (iii), 'income' means—

"(I) except in the case of a borrower who retires or becomes disabled in either the taxable year in which the loss or damage is sustained or the preceding taxable year, or in the case of a borrower which is a corporation, adjusted gross income, as defined in section 62 of the Internal Revenue Code of 1954, reduced by $300 for each deduction for personal exemptions allowable to the borrower under section 151 of such Code, for the taxable year preceding the taxable year in which the loss or damage is sustained,

"(II) in the case of a borrower who retires or becomes disabled in the taxable year in which the loss or damage is sustained or in the previous taxable year, adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954, reduced by $300 for each deduction for personal exemptions allowable to the borrower under section 151 of such Code, as estimated by the Administrator for the taxable year after the taxable year in which the loss or damage is sustained, and

"(III) in the case of a corporation, taxable income, as defined in section 63 of the Internal Revenue Code of 1954, for the taxable year preceding the taxable year in which the loss or damage is sustained."

Mr. TAFT. Mr. President, this is the same amendment, in substance, as my amendment No. 97. Only technical changes have been made. Detailed information as to the intention, purpose, and necessity for the amendment has been distributed to the desks of all Senators.

Mr. President, my amendment would restore to a limited extent the grant through loan forgiveness program for victims of floods, hurricanes, tornadoes, and other natural disasters.

As has already been commented upon on the floor today, the passage of Public Law 93-24 ended the $5,000 loan forgiveness and 1-percent interest rate program, effective as of April 20. Also, as of the end of December, the administration cut off the agricultural subsidies that were being provided and indicated they did not expect to restore them until the 5-percent loan, no forgiveness program was put into effect.

The disaster relief laws were recently amended to eliminate grant assistance. As a result, the best Uncle Sam will presently do for a disaster victim whose home or business has been demolished is to give him a 5-percent loan.

Frankly, I think this is inadequate, and I think it is unconscionable. A 5-percent loan with no forgiveness grant provision is hardly adequate assistance for an elderly person trying to make ends meet on a fixed income and suddenly without adequate housing, or a low- or moderate-income family still responsible for mortgage payments on its silt-covered home.

It can certainly be argued that the disaster relief legislation which we passed last year, to provide $5,000 grants and 1-percent loans for disaster victims, placed an excessive financial burden on the Government. I argued during the debate on that bill that these provisions were unwise, mainly because the $5,000 grants would be given irrespective of proven need. The same extensive Government assistance would be made available to millionaires for repairing their tennis courts, and people who were really made destitute by a disaster.

At that time, the Senate passed my amendment to base the grant amount on the recipient's last year's income. However, this amendment was not accepted by the House of Representatives and died in conference. The resulting forgiveness grant program was certainly unwise.

Nevertheless, the answer to the inadequacies of this program is not to abolish disaster relief grants altogether. President Nixon made a strong case for the importance of an adequate disaster relief program in his May 1 message to Congress on foreign aid. He said:

America's fund of goodwill in the world is substantial, precisely because we have traditionally given substance to our concern and compassion for others. In times of major disaster, American assistance has frequently provided the margin of difference between life and death for thousands. Our aid to victims of disasters—such as the earthquake in Peru and floods in the Philippines—has earned us a reputation for caring about our fellowman.

No nation is more generous in such circumstances. And the American people respond with open hearts to those who suffer such hardship. I am therefore asking the Congress to authorize such amounts as may be needed to meet emergency requirements for relief assistance in the case of major disasters.

Obviously, the President was talking in those cases not about loans, but about grants, the grants and assistance which our Government has made in the spirit of compassion that Americans have always shown, but which is not being shown to Americans at the present time. Why should Americans not be put in at least the same position as those who suffer from the ravages of disaster in other parts of the world?

I believe that America should have concern and compassion for others. I think it is of tremendous importance to be a compassionate world citizen. But I think that we had better be certain at the same time to have compassion for our own citizens.

The disaster relief program, as recently altered, does not do that. I strongly believe in Federal budget cutting wherever appropriate, but the elimination of grants for disaster victims is an utterly discompassionate rejection of the Government's basic responsibility to help its citizens in times of real emergencies. The lack of forgiveness will also encourage Congress to provide special grants piecemeal for victims of specific disasters. For that reason, in the long run if we do not establish some kind of permanent program, we may find that the cost of providing disaster relief exceeds the cost that would exist if we had adopted the amendment I am proposing.

On May 10, just 8 days after I introduced my amendment, north-central Ohio was ravaged by tornadoes. The storm left 5 Ohioans dead, 147 injured and approximately 5 million in private property damage.

The area in question has not yet been declared a disaster area. The chances of receiving a declaration would be enhanced if our Governor would ask for one. But even after a declaration is made, all that people affected can possibly get from the Federal Government under the new law are 5 percent loans.

Mr. President, what am I supposed to tell the homeless people in Willard, Ohio? Am I supposed to go home and say that I voted for as much grant money as necessary to help the Nicaraguans, but no grant assistance for them?

If other Senators are not in this situation now, they could be in it at any time soon.

I am aware that just recently, within the last 2 weeks, the President sent up a proposal on this matter. I agree with many of the proposals in the administration bill—for example, the centralization of disaster assistance responsibility in HUD. But this controversial measure has a long way to go in the legislative process. It has just been introduced. Hearings have not been held as yet.

We cannot wait for a comprehensive bill to pass before we provide adequate disaster aid for our citizens. Indeed, I do not believe we will be likely to leave the situation as it is. Congress is likely to respond to the inadequacies in the present program by either passing special bills to cover individual new disasters or making whatever comprehensive legislation we pass retroactive all the way to last month—and bringing about all of the attendant administrative problems which always accompanies that type of legislation.

Therefore, I urge us to adopt an adequate disaster relief program now. We can always change it later to fit into whatever comprehensive legislation we pass.

The amendment which I am introducing today would provide a grant through loan forgiveness of 100 percent of the damage repair or replacement loan up to $2,500, for those victims of Small Business Administration-declared or presidentially-declared disasters with last year's incomes of $10,000 or less. This percentage would drop by 4 for each additional $1,000 of income, but everyone damaged could receive at least 20 percent of his damage amount—up to

$2,500—as a grant. Any additional loan would be made at the present rate of 5 percent. The grant and amount for those who have retired or become disabled in the year of the disaster or the previous year, would be based on their estimated next year's income.

These provisions would apply to all disasters occurring after April 20, the date after which disaster grants would otherwise be unavailable.

My amendment also repeals the July 30 expiration date of the Small Business Administration's discretionary authority to refinance mortgages of substantially damaged homes for a loan amount greater than the amount of the physical loss sustained—provided that monthly mortgage payments are not lowered as a result of the refinancing—and to suspend disaster loan payments in hardship cases for the lifetime of individuals and their spouses who rely for support on survivor, disability, or retirement benefits. The refinancing provisions must be extended to take care of low- and moderate-income disaster victims who have large outstanding mortgages or large repair bills.

My amendment would provide very substantial assistance to low- and moderate-income citizens, who are least able to afford damage repair and replacement expenses. It would also apportion disaster benefits more equitably than present law. At the same time it would cost considerably less than the $5,000 grant, 1-percent loan relief program in effect for disasters occurring on or before April 20, 1973.

I believe that my amendment is both responsive to the pressing needs of disaster victims and fiscally responsible. I urge the Senate to adopt it.

The PRESIDING OFFICER (Mr. CLARK). Is this amendment the amendment on which there is to be a 2-hour limitation?

Mr. TAFT. This is the amendment covered by the unanimous-consent agreement in that respect.

Mr. CRANSTON. Mr. President, I would like to address myself briefly to the forgiveness provision in Senator TAFT's amendment.

In the past, I have made it plain that I do not favor a flat forgiveness, which is both inequitable and fosters fraud, as experience under this act has demonstrated. I do, however, favor Senator TAFT's proposal for a graduated forgiveness based on the adjusted gross income of the disaster victims.

Clearly there is a great need in these times of economic peril to assist the low and moderate homeowners from the catastrophic effects of a natural disaster. Those individuals with fixed income such as the elderly suffer extra hardship in these situations. I feel that if we are to provide for foregiveness it should be based on the needs of the victims. The surest way to do this is to tie forgiveness to income.

I support Senator TAFT's provision as I did last year, as a fine example of responding to the needs of the society.

In view of my position, I yield the responsibility for the opposition time to the distinguished Senator from Texas (Mr. TOWER).

Mr. TOWER. Mr. President, I yield myself such time as I may require.

Mr. President, the amendment offered by the distinguished Senator from Ohio has not been considered by the Committee on Banking, Housing and Urban Affairs, and is not germane to the subject matter which S. 1672 addresses. Further, the amendment would negate the effects of legislation enacted by this body just a few weeks ago.

S. 1672 is an original bill reported out by the committee, after it had considered and combined two measures: S. 1113, increasing the amounts which may be outstanding from SBA's business loan and investment fund for various program purposes; and S. 804, combining and extending SBA's present authorities to make loans to small business concerns to finance structural operational, or other changes in plant and equipment required to meet standards imposed by Federal law, or by State law enacted in conformity with Federal law.

Mr. President, because of the extreme cost involved in the forgiveness features in effect until recently, and because of the possibilities for abuse provided by such features, the Congress saw fit just last month to enact H.R. 1975—which was signed by the President on April 20, 1973, and is now known as Public Law 93–24. That measure stripped the controversial and costly cancellation provisions out of the law, and increased the rate of interest applicable to disaster loans made by SBA and by the Farmers Home Administration.

The amendment now attempts to undo what was done only last month, by putting a different form of forgiveness back into the law. Further, it would cause serious administrative problems, because income levels would have to be verified and loan personnel would be required to spend more time on each application in order to calculate the amount of cancellation to which each borrower would be entitled. This administrative problem may sound minor and unimportant. But I assure you that in disaster situations, where time is essential and the greatest need is to approve and disburse loans in order to get the victims back into their homes, such a proposal as this one would cause sizable and unnecessary problems.

Mr. President, this body acted just last month to effect a change in the Federal disaster assistance provided by SBA and FHA. We have a new comprehensive disaster assistance bill before the committee now, which should be the subject of hearings and consideration in the committee before we act on this subject on the floor.

I am not saying that I would always disagree entirely with the substantive proposal of my friend from Ohio, but in the light of the fact that we do have a comprehensive disaster bill pending before the committee, pending hearings, we should wait until that time to engage in disaster legislation, rather than trying to enact far-reaching disaster legislation here on the Senate floor today.

I therefore regretfully oppose the amendment offered by my distinguished friend from Ohio.

Mr. TAFT. Mr. President, in reply to the comments of the distinguished Senator from Texas, I would like to point out that for all practical purposes, the subject matter of this amendment was considered by the Banking, Housing and Urban Affairs Committee last year in great detail. I offered an amendment along the same lines at that time in committee. It was thoroughly discussed, and it was passed here on the floor of the Senate by a rollcall vote during the last session.

The bill then went over to the House of Representatives, and the provision was knocked out at that point. Instead, a provision for $5,000 loans without any reference to income was included.

The second point I would like to make is that, as the Senator from Texas has mentioned, if we agree to this amendment we would be undoing something the Senate did earlier this year. Mr. President, I wholeheartedly agree; there is no question about that. But Public Law 93–24 was a farm bill, and did not have any Senate hearings as to its effect upon the SBA disaster relief program. It passed the Senate without any particular notice, on a voice vote.

So, insofar as this part of the bill is concerned, all the arguments as to its consideration in committee are quite the other way around. The Senate committee has heard a great deal about this proposal, and literally nothing about the provision which was embodied into the current law, and cut off the loan forgiveness program for our own citizens who suffer from disasters—quite in contrast with the attitude we have adopted insofar as international disaster relief is concerned.

I would also like to discuss a couple of other subjects the Senator has touched upon. The first has to do with means tests in time of disaster.

IRS estimates that after establishing one new program for the computer, they could certify the income for any given disaster assistance application in 1½ to 2 weeks. There would be a nonrecurring cost of less than $1 million for doing the initial programing. This estimate is based on the probability that IRS might receive 700 or so of these applications per week at some times.

It should be pointed out that people whose damage repair or replacement loan principals are greater than $12,500 would not need to bother with the income test, since they would get $2,500 forgiveness in any case, and that during the 1½ to 2 weeks the SBA can continue to process the application—do the appraisal etc. In addition, there would be no need to verify the incomes of those who claim that their last year's incomes were $30,000 or more, since 20 percent of their loan amount up to $2,500, would be "forgiven" in all cases.

A means test was an integral part of the Administration's bill to amend the Disaster Relief Act of 1970, which was submitted to the Public Works Committee on draft form last year.

A further item covered by the Senator from Texas is the matter of cost.

The SBA could supply no exact cost estimates for the Taft amendment. However, the amendment certainly costs much less than $5,000 forgiveness, 1 percent loan arrangement that Congress passed last summer. Prior to the passage of Public Law 93–24, this arrangement was scheduled to stay in effect through July 30.

The TAFT forgiveness arrangement is also cheaper than that contained in Public Law 91–606, which was in effect before last August and was scheduled to come into effect again on July 30. This law, the Disaster Relief Act of 1970, provided $2,500 forgiveness to anyone who took out a loan for $3,000 or more—regardless of his income. In addition, the new administration proposal is to provide averaging not more than $3,000 for needy disaster victims. The average grant under the Taft amendment will be considerably less than $3,000.

Mr. President, I think this answers the Senator's criticisms and comments. I am not barring the possibility of having hearings and going into great detail in considering a comprehensive proposal, if such a proposal comes from the administration, as to how to handle disaster relief. But I do say that to the victims of floods and other disasters, in this interim period while we are considering such legislation, we have an obligation to be fair and compassionate, and I urge the passage of this amendment.

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

Mr. TAFT. I am glad to yield to the Senator from Illinois.

Mr. STEVENSON. I have a perfecting amendment. Will the Senator yield me 5 minutes?

Mr. TAFT. I am glad to yield the Senator such time as he wishes. However, Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TAFT. If the Senator offers a perfecting amendment, does he not have his own time?

The PRESIDING OFFICER. There would be 30 minutes on an amendment in the second degree, 15 minutes to each side. However, the Chair would remind the Senator from Illinois that his amendment would not be in order until all time on the amendment in the first degree has been used or yielded back, except by unanimous consent.

Mr. STEVENSON. I ask unanimous consent to proceed with a perfecting amendment.

The PRESIDING OFFICER. Is there objection?

Mr. TOWER. Mr. President, reserving the right to object, will the Senator from Illinois state his unanimous consent request again?

Mr. STEVENSON. I ask unanimous consent that I be permitted to offer a perfecting amendment and that the time will run on the perfecting amendment without depriving the Senator from Ohio of the time remaining on his amendment.

Mr. TOWER. I have no objection.

Mr. TAFT. Mr. President, I have no objection. However, I do have other requests for time, and cannot yield back the time on the amendment.

The PRESIDING OFFICER. The Senator's time would be reserved.

Is there objection to the request of the Senator from Illinois? Without objection, it is so ordered.

AMENDMENT NO. 134

Mr. STEVENSON. Mr. President, I call up my perfecting amendment No. 134.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed in the RECORD.

Mr. STEVENSON's amendment (No. 134) is as follows:

Amendments intended to be proposed by Mr. Stevenson to amendment numbered 97 proposed by Mr. Taft to S. 1672, a bill to amend the Small Business Act, viz:

On page 2, line 8, strike out "$2,500" and insert in lieu thereof "$4,000".

On page 2, line 12, before the period insert the following: ", and the interest on the balance of the loan shall be at a rate of 3 per centum per annum".

On page 3, after line 14, add the following new subsection:

"(c) Notwithstanding the provisions of any other law, in the case of a disaster occuring on or after April 20, 1973, the Secretary of Agriculture shall make disaster loans at the same rate of interest and with the same forgiveness provisions applicable to Small Business Administration disaster loans pursuant to this section."

Mr. STEVENSON. Mr. President, I send to the desk some minor technical modifications to conform the amendment with amendment No. 138 offered by the Senator from Ohio.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. STEVENSON's amendment (No. 134), as modified, is as follows:

Amendments intended to be proposed by Mr. Stevenson to amendment numbered 138 proposed by Mr. Taft to S. 1672, a bill to amend the Small Business Act, viz:

On page 2, line 8, strike out "$2,500" and insert in lieu thereof "$4,000".

On page 2, line 14, before the period insert the following: ", and the interest on the balance of the loan shall be at a rate of 3 per centum per annum".

On page 3, after line 17, add the following new subsection:

"(c) Notwithstanding the provisions of any other law, in the case of a disaster occurring on or after April 20, 1973, the Secretary of Agriculture shall make disaster loans at the same rate of interest and with the same forgiveness provisions applicable to Small Business Administration disaster loans pursuant to this section."

Mr. STEVENSON. Mr. President, I ask unanimous consent that a member of my staff, Mr. Barry Goode, be permitted the privilege of the floor during the debate on this bill.

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

Mr. STEVENSON. Mr. President, since April 20, when the President signed Public Law 93–24, the Consolidated Farm and Rural Development Act, disaster relief grants, that is to say, loan forgiveness for disaster relief loans, have been unavailable and loans are available only at a 5-percent interest rate. This provision, as it applies to SBA loans, was approved by the Senate on a voice vote late in the day, and without the debate such a proposal deserved. It replaced a provision which provided disaster relief grants up to $5,000 and 1-percent loans. It was argued that the previous provision was too generous and perhaps that is so. But its replacement errs on the other extreme. It is unconscionable. The present disaster relief program really offers the disaster relief victim nothing, or at least it would offer the disaster relief victim nothing were it not for the fact that commercial bank rates are at the present time extraordinarily high. When it offers 5-percent long-term loans, something more than that is needed, and needed now, while longer-range legislation is being considered.

I want to commend the distinguished Senator from Ohio (Mr. TAFT) for his compassionate and creative response in offering help to the innocent victims of natural disasters in the United States. The mechanism he proposes would provide grants to those in need, but would decrease the size of these grants in proportion to an individual's income. The concept which has been reviewed in the Banking Committee and approved last year on the floor of the Senate is a sound one and I intend to support it. But while the concept of the amendment of the Senator from Ohio is sound, it can, I believe, be strengthened in three ways. That is the purpose of the perfecting amendment.

The first change would reduce the rate of interest on disaster assistance loans from 5 to 3 percent. The difference between a 5–percent and a 3–percent interest rate on these loans is substantial to the borrower. It would make a great difference to hard-pressed victims of natural disasters.

Let us assume that a family with an annual income of $8,000 owns a house valued at $20,000 and that the house is destroyed in a hurricane. Under the terms of the Taft amendment, the family would receive, in effect, a $2,500 grant and a $17,500 loan. For the sake of computation, let us further assume the loan is 25 years in duration. The cost of that loan over its lifetime would be $5,833 more at a 5-percent interest rate than at a 3–percent interest rate. Clearly, $6,000 is a substantial sum of money to a family earning only $8,000 per year.

The second change would substitute $4,000 for the $2,500 maximum forgiveness proposed by the Senator from Ohio. In Public Law 92–385, Congress directed the President to make a study of existing disaster assistance legislation and to recommend improvements in that law. On May 8, the President transmitted such a report to this body, recommending that disaster assistance loans contain a forgiveness feature of up to $4,000, depending on the recipient's income. My amendment is consistent with that recommendation. It would provide a fair measure of generosity to people who have been made needy by forces beyond their control. It would provide assist-

ance to those who need it the most, and, at the same time, with the concept proposed by the Senator from Ohio, would avoid giving windfalls to wealthy individuals.

Mr. President, this perfecting amendment would make a third change in the amendment proposed by the Senator from Ohio. It would assure that Farmers Home Administration's disaster assistance loans would be made on the same terms as the changes proposed for the Small Business Administration program. We cannot in good conscience alter the Small Business Administration loan program without making a similar change in the FHA program.

That was the governing principle that emerged from the Senate debate on the subject in late March, and again this morning in the debate on the amendment offered by the Senator from Missouri (Mr. EAGLETON), an amendment which was adopted this morning by the Senate. This principle was supported without dissent on the floor of the Senate and was supported by the Senator from Texas (Mr. TOWER) and other Members of this body who recognize that a disaster is a disaster whether it occurs on the farm or in a city, and that it would be wrong for the Government to discriminate against some citizens simply because they live in the countryside or on the farms and not in the cities.

So my amendment would perfect the Taft amendment by changing the FHA disaster relief program to conform it to the terms of the Small Business Administration's disaster relief program.

Mr. President, the Senator from Ohio rightly and persuasively pointed out that the United States at the present time provides disaster relief on far more generous terms to citizens in other parts of the world than it does to its own citizens. The amendment which I offer accepts the concept of the Taft amendment and would simply provide relief on moderately more generous terms, terms which I do not believe can be called too generous—that is, a 3-percent loan with a maximum of $4,000 forgiveness—and finally, loans to those who live in the countryside as well as to those who live in the cities.

Mr. President, I urge adoption of my amendment.

Mr. TAFT. Mr. President, I do not know the disposition of the Senator from California on this amendment. I do not know whether he is yielding time on it. May I inquire of the Senator?

Mr. CRANSTON. I will say a few words about the amendment. I will support it. Therefore, I should yield time to the Senator from Ohio to handle opposition to it, if that is the Senator's disposition.

Mr. TAFT. Mr. President, I thank the Senator. I believe that under the unanimous-consent agreement, whoever proposes an amendment would have the time, but I oppose the amendment. I therefore yield myself 3 minutes to oppose the amendment of the Senator from Illinois.

The PRESIDING OFFICER (Mr. BIDEN). The Senator from Ohio is recognized for 3 minutes.

Mr. TAFT. Mr. President, I rise to oppose the amendment with a good deal of reluctance, but I feel compelled to do so for a number of reasons. I designed my amendment so that it would provide substantial relief to those who need it most, while at the same time having as small a budgetary impact as possible, so as to make more likely passage of the legislation which, as I have indicated, should be passed on an emergency basis as quickly as possible.

The question of how much disaster relief to give is a subjective one: I, personally, would not oppose the Stevenson amendment on the grounds that it provides excessive relief. But my overriding concern is that some further relief be provided, and that concern leads me to be extremely sensitive to the political climate surrounding this legislation.

My amendment, unless we have another Hurricane Agnes in the near future, is probably going to have a tougher time in the House than the Senate. That turned out to be the case last year. In addition, the more expensive it is, the more likely the President may feel it necessary to veto it for budgetary reasons.

For these reasons, I carefully drew up my forgiveness provision to cost about the same as the loan and grant arrangement under the Disaster Relief Act of 1970, the law in effect before we liberalized the program significantly as a reaction to the Agnes disaster. The maximum forgiveness under both approaches is $2,500, and the interest rate in my amendment is about one-eighth percent lower than it was under the Disaster Relief Act of 1970.

As I said, I personally believe that the higher assistance amount in the Stevenson amendment is probably justifiable and equitable. Nevertheless, there is no denying that the liberalizations contemplated carry a hefty price tag. For example, on a 20-year, $20,000 home repair or replacement loan, the difference between a 5-percent interest rate and a 3-percent rate alone, is much more than the forgiveness amount proposed by either myself or Senator STEVENSON. These expenses worry me, because I feel that they could jeopardize the passage of this essential legislation.

I left the agriculture disaster relief program out of my original amendment in deference to the Agriculture Committee, which reported the bill changing the farm disaster relief program to a 5-percent loan program, presumably after careful and detailed consideration. The farmers' home disaster relief program had been suspended and, under the circumstances, the committee felt that the 5-percent program was the best arrangement possible to achieve at that time. I have been informed this morning that the committee chairman is still of the opinion. He urges that our efforts be limited to the SBA program, which was never suspended in the first place. I do realize that this does raise a problem of equity, however, and that many Senators will feel that the Stevenson amendment as it relates to the farmers' home program must be accepted on those grounds.

Because of its cost and the peculiar situation concerning the rural disaster relief program, I believe that passage of the Stevenson amendment would mean rougher going for this bill. Therefor, it is with some reluctance that I say I cannot accept it.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The yeas and nays were not ordered.

Mr. STEVENSON. Mr. President, I suggest the absence of a quorium.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The yeas and nays were ordered.

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

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, in connection with the amendment offered by the Senator from Illinois, since April 20, disaster relief assistance to the unfortunate victims of natural disasters has consisted of 5-percent loans, with no forgiveness feature. Prior to that date, disaster relief assistance consisted of 1-percent loans, with a $5,000 forgiveness. The administration, via a floor amendment, repealed the forgiveness feature of the Disaster Relief Act as of April 20. On May 8, the administration came to Congress with its comprehensive disaster relief bill, which included a $4,000 forgiveness figure.

This kind of action seems to me to be very confusing and not particularly logical. The administration cuts off forgiveness 1 month and recommends forgiveness the next month. I am not certain whether $2,500, $4,000, or $5,000 is the proper amount of forgiveness. However, $4,000 is considerably lower than the $5,000 flat forgiveness that was in effect 1 month ago, the same amount now recommended by the administration.

Certainly, I agree that the unfortunate victims of disasters who are now deprived of forgiveness as of April 20 should be given forgiveness assistance until Congress can consider the administration comprehensive disaster bill, at which time a substantial change may be made in many of the arrangements that are now being made and that will be, in that sense, rather temporary. But in the interests of justice, I do support the amendment of the Senator from Illinois.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the amendment by Mr. STEVENSON occur today at 1 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. TAFT. Mr. President, reserving the right to object—and I shall not object—I have a request for additional time thereafter, so I would think a time certain of 1:45 would be feasible.

Mr. ROBERT C. BYRD. On the Senator's amendment?

Mr. TAFT. Yes.

Mr. ROBERT C. BYRD. Very well.

Mr. TOWER. Or earlier.

Mr. TAFT. Yes, or earlier.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the amendment by Mr. TAFT occur at 1:45 p.m. today, or earlier if time thereon is yielded back.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, could we hear that again?

Mr. ROBERT C. BYRD. The vote on the Stevenson amendment would be at 1 p.m. today and the vote on the amendment by Mr. TAFT would be not later than 1:45 p.m.

Mr. JAVITS. I thank the Senator.

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

The Chair wishes to inquire of the Senator from West Virginia, what is to happen with only 14 minutes remaining on the time of the Senator from Illinois between that time and 1 p.m.?

Mr. ROBERT C. BYRD. The vote would occur in any event at 1 p.m. today.

The PRESIDING OFFICER. The Chair understands that. But that means a 25-minute hiatus.

Mr. ROBERT C. BYRD. We will worry about that. I do not think we will run into a problem. We can solve that when the time comes. I think the Senator from Illinois is probably going to ask unanimous consent to take up a noncontroversial amendment. He says that it is noncontroversial. The Senator from New Mexico wishes to speak on the amendment by the Senator from Ohio.

The PRESIDING OFFICER. There will be no problem if the time is used on the amendment to the bill or the Taft amendment.

Mr. ROBERT C. BYRD. Yes. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. TAFT. I yield 5 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the distinguished Senator from Ohio.

Basically, I have some comments directed to the proposals of the Senator from Ohio (Mr. TAFT) and the Senator from Illinois (Mr. STEVENSON). I hope the Senate is genuinely concerned about the inadequacy of the approach we are taking today to provide assistance to persons affected by a natural disaster. I agree we must continue to have some kind of individual assistance by way of a grant during the period of time it takes Congress to understand we cannot continue to handle disasters and the need for disaster relief in a piecemeal manner and to agree on a unified permanent and equitable disaster program that will address the whole complex of needs created when a disaster strikes. Each time a disaster occurs we cannot convene the Congress and decide whether to provide a $5,000 or a $2,500 forgiveness in the FHA or SBA loan programs. We have to decide as a nation, based on experience and we have had a great deal of experience with Agnes, Buffalo Creek, Rapid City, the California earthquakes and other disasters what we are trying to do, what needs we are trying to meet and then write a comprehensive disaster program. The record is full of the shortcomings of the present fragmented approach to disaster assistance.

One of the main categorical programs used to aid an individual who loses his home and possessions in a disaster is the Small Business Administration loan program.

In that regard, I wish to submit for the record testimony from Mr. Allen I. Slaman who was the SBA loan administrator in region III during and after the Agnes disaster.

I ask unanimous consent that the statement by Allen I. Slaman, Assistant Chief, Loan Administration Division, SBA, may be printed in the RECORD.

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

STATEMENT BY ALLEN I. SLAMAN

I am Allen I. Slaman, Assistant Chief, Loan Administration Division, Region III, Small Business Administration in Philadelphia.

Mr. CHAIRMAN: I appreciate the opportunity to appear today in behalf of Region III of the Small Business Administration.

As all of us are so well aware, Tropical Storm Agnes was by almost any standard of measurement, the greatest natural disaster to ever strike the U.S. mainland. Certainly, no disaster caused more human suffering and misery than Agnes did and the people of Pennsylvania in general, and the Wyoming Valley in particular bore the brunt of a very large part of that suffering and misery.

Our chief concern at SBA since we opened our first office in Pennsylvania only three days after Agnes struck on Friday, June 23, was to help the people in the Wyoming Valley and throughout the Region, get gack on their feet as quickly as possible.

As a matter of fact, our staff was at work over the weekend following the storm, surveying to the extent possible the damage and getting preliminary information that would serve as the basis of our operations.

First, SBA declared all of Pennsylvania's 67 counties eligible for SBA assistance.

By the end of the first week, we had established SBA disaster offices in 24 locations in the State, including Wilkes Barre and the surrounding areas.

I believe it is extremely important to note that while Pennsylvania and the Wyoming Valley were our chief concerns, Region III also was responsible for and provided disaster relief to Hurricane Agnes victims in Maryland, Virginia, West Virginia, and the District of Columbia.

We assembled the greatest disaster task force in the Agency's history—nearly 1,400 people—and over 800 of that number were assigned to work in Pennsylvania.

The existence of other disasters throughout the country and the need to continue to provide assistance to the small business community under our regular programs limited the availability of permanent SBA personnel however, temporary personnel were hired and performed an excellent job. The assistance provided by volunteers of all types, including Region III Advisory Council members, SCORE, ACE, the banking community, and private citizens was exceptional and aided this Agency greatly.

I think it is also noteworthy to mention that our workforce was augmented by the addition and by the cooperation of other Federal Agencies. In particular, the U.S. Department of the Treasury provided 120 personnel to supplement our workforce.

Mr. Chairman, this disaster, not unlike almost every other disaster SBA has responded to in our 20-year history, produced problems which were compounded by the magnitude of this disaster.

We believe that for the most part we recognized these problems and while immediate solutions were not always possible, we did the best we could to resolve them. Indeed, we are still finding an occasional problem, and are continuing to take corrective measures as soon as they are recognized.

Consideration of loans for victims located in possible redevelopment and urban renewal areas posed a serious problem, principally because decisions on areas under consideration had not been reached by the local redevelopment authorities and, in some cases, still have not been. Therefore, although loans were either disbursed or approved, cases where redevelopment and urban renewal has an effect will be handled on an individual basis as action becomes possible.

Another serious matter is the escalation in building costs that have taken place necessitating the reconsideration of many applications which when approved, provided the disaster victim with ample funds for the repair of his home but which now have or may have become insufficient. It is the intention of the SBA to do everything possible within the purview of our legislative authority to aid these people in making their repairs so as to be able to return them to their homes.

In addition, Mr. Chairman, I wish to point out that the Agency has attempted to help the homeowner, within its limited authority, by repeatedly warning against unscrupulous contractors that attempt to take advantage of victims in serious disasters such as this one. While the licensing and policing authority rests with the State and local governments, we have tried to help through numerous press releases and other public messages.

I think it is pertinent to point out some of the things we did here to speed our response to the devastation caused by Agnes.

We received maximum authority from Washington to approve loans. Prior to Agnes, disaster offices could approve loans of up to $50,000. This was increased to $500,000 for all disaster offices.

We streamlined procedures to expedite approval of property loans and unsecured home loans.

We eliminated the requirement for disaster victims to obtain a contractor's estimate before we would accept an application.

We contracted with a private appraisal firm to obtain loss verification reports on Pennsylvania applications.

We selected key personnel to serve on management teams that went into every disaster office to assure that the streamlined procedures were implemented.

A major innovation to provide more efficient service to disaster victims was the assignment of Ombudsmen to various major offices and this personal service resulted in 70 to 800 telephone calls a day in which the

Ombudsmen were able to satisfy 90 percent of the inquiries within a 24-hour period.

In an effort to speed up the disbursement of checks, a Fiscal Office was established in Harrisburg, Pennsylvania, which was supported by the U. S. Treasury Department establishing an office there which issued checks directly, thereby enabling rapid service on the delivery of checks and avoiding the transportation delay that would have resulted in going to our Fiscal Office Headquarters in Denver, Colorado, and then to Washington, D.C.

On August 16, 1972, President Nixon signed Public Law 92-385 which amended existing Disaster Relief Legislation and required an extensive review of all previous loan applications.

While continuing to expedite incoming applications, SBA utilized computers to assist in the job of making the retroactive benefits of the new Law available to the disaster victims who already had received SBA loans.

Mr. Chairman, we at SBA are extremely proud of the job we did for Pennsylvanians and residents of the Wyoming Valley in particular. Our efforts were not without their shortcomings but we have done our best job possible to respond to the needs of the people under existing Disaster Relief Legislation.

Less than two month after SBA began disaster operations in Tropical Storm Agnes, the Agency had approved more than $200 million in loans and more than 60 percent of that was approved for disaster victims here in Pennsylvania.

As of March 31, 1973, SBA has approved disaster loans in the sum of $775,825,103 to disaster victims in Pennsylvania; a total of 91,713 loans. And, to illustrate the magnitude of the devastation here in the Wyoming Valley, more than half of that dollar total, $415,190,011, a total of 30,942 loans have gone to residents of the Wyoming Valley which is served by our Wilkes-Barre office.

So great was the need here, that SBA has established a permanent office to service the disaster loans and to care for the continued and future needs of the businesses here under our regular loan program.

Mr. Chairman, again, we at the Small Business Administration are extremely proud of the effort on the part of our staff, and of the Agency's accomplishments, in assisting diaster victims of Tropical Storm Agnes.

Mr. DOMENICI. Mr. President, it might be interesting for those interested in the capability of the Small Business Administration to handle this matter to note that 90,000 loan applications were handled in Pennsylvania alone as a result of Agnes, and over 800 people were employed by SBA to process those applications. As Mr. Slaman noted in his testimony, in order to continue to provide assistance under the regular small business program, the purpose for which SBA was established—the use of permanent, skilled SBA personnel in the disaster office was limited and temporary personnel was hired to carry out much of the work.

The Public Works Disaster Relief Subcommittee held 2 days of hearings in Wilkes-Barre last weekend to evaluate the adequacy and implementation of the Disaster Relief Act of 1970, Public Law 91-606, during and after the Agnes disaster. One of the greatest concerns expressed to us by the local people was that the Small Business Administration had no clear, consistent policy or guidelines to handle the disaster relief loan program, and the high rate of turnover in personnel exacerbated this problem.

There are those who insist we handle the flood insurance program separately from the disaster relief provided through the grant and loan program.

We have those who question the adequacy or inadequacy of flood insurance. There are many that say flood insurance is the only real solution.

Mr. President, would you believe that in the Wilkes-Barre area, prior to Agnes, only two homes were insured under the national flood insurance program but over 14,000 homes were damaged by the storm. I submit it is not sufficient to say, "Let us modify the limits, the extent of coverage, and the like." We have to figure out a way to assure the homeowner of some kind of insurance coverage, much akin to his fire insurance, so he would make the decision on the extent of coverage. We should make it easy for him, and we should not put in the hands of a small business loan association the job of separating out this enormous need for help when something like Agnes comes along.

For instance, during the subcommittee's hearings in Wilkes-Barre, we had testimony from a 65-year-old man whose home was three-quarters destroyed by the flood and who had a $20,000 mortgage on the house before it was destroyed. Public Law 606, prohibits discrimination against senior citizens, so SBA gave him the $5,000 grant and a loan for $15,000. He said, "I am 65 years old. The house has $20,000 worth of mortgages on it. Whether the loan be 1 percent or 5 percent, I am worried. I am a sick man. When I die my wife is going to be burdened with this debt. How can you help me?" We have no provision for life insurance in that situation.

We had farmers come before us saying, "You give businessmen downtown loans and there is additional assistance under urban renewal. What are you doing for me?" The farmer says, "My house is in the middle of my farm. My farm and my house have been destroyed. I do not know which agency to go to. Am I to be treated as a homeowner or do I resort to something akin to a grant-in-aid program?"

I am not here to challenge the amendment of the Senator from Ohio for the $2,500 forgiveness, or the Senator from Illinois' proposal, which is more generous and broader based. I am here to say that neither is going to be adequate, that neither is going to do the job in this country, and we are not going to solve the problem of providing adequate disaster relief by continuing to take one program from the Committee on Banking, Housing and Urban Affairs and another from a different committee in the Senate and hope they will work together and do the job. We should make up our minds to do something that needs to be done and develop a unified disaster program.

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

Mr. TAFT. Mr. President, I yield 2 additional minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Let me continue with my caveats and concerns. I have now visited two major disaster areas as the ranking minority member of the Public Works Disaster Relief Subcommittee. During these hearings, we heard most about the need for a catastrophic insurance program. Then, we come back and find that we are piece-meal considering amendments to one grant-in-aid program—out of about 30 that provide some form of disaster assistance.

I submit to Senators in the Chamber today with amendments, who indicate great concern for disaster victims, that the best that we could do would be to consider the total needs of the people in a disaster area and not thrust on the Small Business Administration a policy it is not equipped to handle.

If we pass either amendment today we do not solve the problems we have heard about in our field hearings. The SBA was not created and it is not equipped, nor are the people trained to handle these problems. We should be talking about disaster assistance aside from the jurisdictional lines that guide us, whether they be the FHA or the SBA.

I commend both Senators for their efforts in the meantime. I do not know which is more correct; neither will solve the problem. The evidence is now abundant that we are not going to solve it in an orderly manner if we follow the fragmented approach which this legislation perpetuates. We must decide the kinds of needs that must be met and call it a disaster program, and not deal with it piecemeal and willy-nilly as we are now.

I thank the Senator from Ohio for yielding to me 7 minutes on this matter.

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

I want to commend the junior Senator from New Mexico for a very sound analysis of the problems in this regard. It is certainly true that the SBA has turned out to be an agency that has been tremendously overburdened with the problems of handling disaster relief programs in the past.

One thing which the Senator did not mention, which I know from my conversations with Mr. Kleppe, the Administrator of the SBA, is that the other SBA programs are and have been suffering very materially because of the tremendous demands that have been made on SBA in connection with disaster loan and grant programs we have had in the past.

It seems to me the SBA is a tremendously important agency, one that I think is attempting to do a good job and has been doing a good job in its regular functions. If we could somehow unburden it from the administration of disaster relief programs, it would be able to do an even better job on these functions than it has been doing.

As legislation, I am proposing, I think we are dealing with an emergency situation. There is nothing to prevent us from going ahead, in due course, and having very comprehensive hearings on the proposal that the chairman of the committee submitted today, which I understand has the blessing of the administration, in an attempt to achieve some centralization and conduct a review of the entire disaster relief program itself.

Certainly the flood control and insurance program has been emphasized all too little and understood all too little. Perhaps it has not been doing the kind of job it ought to be doing.

I commend the Senator for his concern. I will only say I am aware of the problems he points out, that many Senators are aware of them that, and we should certainly attempt to work in the direction he suggests.

I thank the Senator for his comments.

AMENDMENT NO. 135

Mr. STEVENSON. Mr. President, I ask unanimous consent that the pending amendment be set aside for a period of not to exceed 10 minutes, during which I will offer what I believe to be a noncontroversial amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I call up my amendment No. 135, which is at the desk.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read the amendment (No. 135) as follows:

SEC. 4. The Disaster Relief Act of 1970 is amended by inserting in section 101(a)(1) between the words "high waters," and "wind-driven waves," the following: "erosion," and inserting in section 102(1) between the words "high waters," and "wind-driven waves," the following: "erosion,".

Mr. STEVENSON. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors of this amendment: Senators PROXMIRE, PERCY, BAYH, HARTKE, JAVITS, SCHWEIKER, HUMPHREY, TAFT, WILLIAMS, GURNEY, and TUNNEY.

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

Mr. STEVENSON. Mr. President, this amendment has already been adopted unanimously in the Senate by voice vote. The effect of the amendment is to simply add to the list of natural disasters, in the Disaster Relief Act of 1970, erosion. The act now provides relief from damage caused by a variety of disasters—flooding, for example, but not erosion. The damage can be exactly the same. What difference does it make to the innocent victim if his home is toppled into Lake Michigan or the Pacific Ocean as a result of the undermining effects of erosion, or if it is washed away?

This amendment is intended to eliminate an inequity and an inconsistency in the present disaster relief program by simply including the victims of erosion as well as the other natural disasters which are listed in that act.

As I mentioned, it has been adopted unanimously by the Senate on a voice vote. It was dropped in conference on a question of germaneness, which would not be present if adopted again by the Senate this time as an amendment to the bill that is before us.

Mr. President, I ask unanimous consent that the Senator from Delaware (Mr. BIDEN) also be listed as a cosponsor.

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

Mr. STEVENSON. Mr. President, I have discussed the amendment with the Senator from California (Mr. CRANSTON) and also with the Senator from Texas (Mr. TOWER). I hope that they might be prepared to accept the amendment.

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

Mr. STEVENSON. I yield.

Mr. TAFT. Mr. President, I am a cosponsor of the amendment offered by the Senator from Illinois because it is essential and equitable that those people on the shores of the Great Lakes whose properties are endangered by soil erosion be able to receive Federal disaster assistance.

This amendment makes it clear that shoreline areas suffering from severe erosion where life or property is seriously endangered would qualify for such assistance. The Office of Emergency Preparedness believes that this type of disaster can be just as serious as disasters such as flooding and tornadoes which are already eligible for assistance.

As one who is very familiar with the situation in the Toledo area and along Lake Erie in northern Ohio, I agree with this assessment wholeheartedly. Individuals fighting to save shoreline facilities before they are washed way deserve the help of the Federal Government.

This amendment is crucial to the people of my State and others in the Midwest. I urge its adoption by the Senate.

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

Mr. STEVENSON. I yield.

Mr. CRANSTON. I, too, am delighted to support the amendment offered by the Senator from Illinois.

Shoreline erosion is a problem throughout the United States. Many areas in the State of California are experiencing this problem, particularly along the coast from Santa Barbara to San Diego.

At the present time there is no assistance for homeowners or small businesses from the Federal Government under existing legislation. Congress cannot authorize the Corps of Engineers to go in to correct the erosion situation on private land. Legislation authorizing the Corps of Engineers only allows them to assist where public lands are involved.

At the present time, if there is excessive flooding that causes erosion, a natural disaster can be declared. However, if there is continuous erosion which is just as damaging, a disaster cannot be declared. I agree with the purpose of this amendment to eliminate that inconsistency in the present legislation. I am delighted to support the amendment.

Mr. TOWER. Mr. President, I shall not object to the amendment. I am prepared to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois (putting the question).

The amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the Stevenson amendment to the Taft amendment.

Mr. CRANSTON. Mr. President, I yield to the Senator from Nevada (Mr. BIBLE) from the time on the bill to such time as he may require.

Mr. BIBLE. Mr. President, my remarks are addressed primarily to, and in support of, section 2 of S. 1672, as reported by the Committee on Banking, Housing and Urban Affairs on April 30[1] and now before the Senate for consideration.

This section would provide general authority for "economic disaster" loans to small businesses facing compliance with mandatory Federal environmental, consumer protection laws, such loans coming through the Small Business Administration. This legislation would grant general authority for SBA to make low-interest loans so that small businesses can comply with requirements imposed by any Federal environmental, consumer, health and sanitary law—or any State, regional and other laws enacted pursuant to such Federal authority in these fields.

Some background on this section of the bill might be helpful. By now, many members of this body have seen long-established businesses shut down under the impact of environmental and consumer legislation.[2] The Council on Environmental Quality informs us that about one-third of plant closings in the next few years will be for these reasons.

We have been trying, since 1968, to provide for Small Business Administration loans to enable small companies to come into compliance with these laws when private financing is unavailable, and thus to remain in business.

Section 2 was first introduced as S. 1750 in the 91st Congress. It was reintroduced as S. 1649 in the 92d Congress and passed the Senate as part of the Disaster Relief Act, following tropical storm Agnes. It was, however, deleted in the House-Senate Conference last year.

After extensive consultation with the House Members concerned and the Small Business Administration. I reintroduced this bill with several refinements and improvements as S. 804 of this 93d Congress.

Since 1969, this language has also been enacted as limited to five particular statutory areas. These are listed and explained in my testimony to the Senate Committee on Banking, Housing and Urban Affairs of March 12, 1973. I ask unanimous consent that this statement be included in the RECORD following my remarks for information purposes.

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

(See exhibit 1.)

The enactment of section 2 of this bill would consolidate these five existing subsections and would provide a uniform basis for extension of this principle to other needed areas where Federal environmental and consumer laws and regulations are requiring small businesses to make large-scale capital investments under short-term deadlines.

Three key provisions of the bill are as follows:

First. All loans are fully repayable with interest;

[1] S. Rept. 93–132.

[2] Dun & Bradstreet has reported that liabilities of companies going into bankruptcy more than doubled between 1968 and 1972, going over $2 billion for the first time in 1972.

Second. The interest rate is at the full cost of money to the Federal Government plus ¼ of 1 percent, a rate comparable to that available to large busineses by the use of Government-sponsored tax exempt bonds; and

Third. There is a ceiling on the maximum loan amount under this section equal to what is permitted under all other sections of subsection 7(b) of the Small Business Act.

We have worked closely with the House of Representatives to satisfy their questions with regard to this legislation. We were particularly pleased that Chairman WRIGHT PATMAN, of the House Banking Committee, chose to introduce the companion bill (H.R. 4272) on February 8, 1973.

My March 12 testimony, which will follow this statement, includes a tabulation of the 126 loans which SBA has made in various categories under the previously enacted authority. I feel that the Small Business Administration is already well along in developing the necessary guidelines to undertake administration of the general authority of this loan provision.

Since 1969, language has also been enacted limited to five particular statutory areas.

There has been broad bipartisan cosponsorship of S. 804 by 36 Senators this year. We have worked long and hard to bring the legislation to this point. We feel it is a technically sound bill and much needed bill. We thus urge its passage so that we can help millions of American small businesses become full partners in progress rather than its victims.

EXHIBIT 1

STATEMENT BY SENATOR ALAN BIBLE

Mr. Chairman, and members of the Subcommittee, I appreciate very much appearing before this Subcommittee in support of S. 804, the so-called "economic disaster" SBA loan bill. This is a special pleasure since the Chairman of this Subcommittee in this Congress is the distinguished Senator from California, the neighboring state to the west of my own.

May I submit for insertion at the close of my testimony an explanatory statement I gave before this Subcommittee on my bill, S. 1649, in the 92nd Congress, which also provides a history of the background of this legislation together with the goals it has intended to reach.

In further explanation, I include a copy of my floor statement at the time this legislation was introduced by myself on behalf of 36 other Senators as cosponsors on February 7, 1973.

Mr. Chairman, the major provisions of S. 804 were approved by this Committee and passed the Senate last year as part of H.R. 15692, but the "economic disaster loan" provisions contained in section 2 were deleted in conference at the insistence of the other body.

Since last Fall, we have consulted at length with the House members who questioned the absence of a statutory loan ceiling. We have also conferred with the Small Business Administration. Consequently, I can report that these problems have been worked out most satisfactorily and the distinguished Chairman of the House Banking and Currency Committee (Mr. Patman) has graciously offered to serve as the chief sponsor of this same bill and has introduced it as H.R. 4272 in the other body.

Perhaps I can assist the Subcommittee by outlining briefly the highlights of the bill and some of its technical features.

The principle of the bill is simple: a small business that cannot obtain capital to finance improvement in plant or equipment required by Federal environmental, consumer, health and safety statutes can come to the Small Business Administration for a compliance loan. We have called this an "economic disaster loan" bill, because without access to this capital source, many firms will be legislated out of business without compensation.

Since the proposal was first offered on April 1, 1969, the SBA economic disaster loan authorization has been enacted in the following statutes:

1. Coal Mine Safety Act of 1969—as to small coal mines.

2. Occupational safety and Health Act of 1970—as to small businesses facing compliance with this Act.

3. Egg Products Inspection Act of 1970—as to small meat, poultry, and egg processors subject to the Wholesome Meat, Poultry Products, and Egg Products Inspection Acts.

4. Water Pollution Control Act Amendments of 1972—as to firms required to comply with that Act.

5. Rural Development Act of 1972 as to firms and businesses in rural areas.

On this basis, I believe it is fair to say that there is widening acceptance of this principle by the committees and membership of Congress. Also, there are 36 cosponsors of S. 804 in the present session and the distinguished Chairman of the House Banking Committee, Rep. Wright Patman, introduced the companion measure in the other body. However, there remain gaps in coverage; for example, air pollution and low-lead gasoline. The distinguished Chairman of this Committee (Mr. Sparkman) at one time prepared a table listing many Federal statutes requiring compliances with mandatory standards under Federal deadlines. This is contained as an exhibit to my statement.

S. 804 would consolidate the existing program authorizing financial aid for particular purposes; and would provide a consistent framework for the application of this principle in other areas.

This bill would grant to the Small Business Administration discretionary authority to formulate regulations assuring a similar and fair application to all industry groups and individual businesses as well as protection against possible abuses. SBA has already accumulated experience administering the existing authority, as indicated by the following chart showing loans made under provisions already in the law:

CONSUMER PROTECTION PRODUCT LOANS, CUMULATIVE THROUGH JAN. 1, 1973

	Number	Total	SBA share
Meat product loans	162	$24,416,886	$23,535,521
Egg product loans	21	2,743,300	2,707,870
Poultry product loans	7	775,500	740,330
Total	190	27,935,686	26,983,721
Occupational health and safety	36	6,505,700	6,309,510

The Agency would be in a favorable position to proceed further given a Congressional mandate by such legislation as S. 804.

The following are somewhat technical features of the bill:

1. *Loans contemplated by the bill are fully repayable*—there would be no "forgiveness" amounts or grants. The financial assistance would be in the form of loans under section 7(b) of the Small Business Act with compensatory interest.

2. *The interest rate proposed is the cost of money plus ¾ of 1 percent*—The bill is designed to make capital available for compliance where it would be otherwise unavailable through commercial sources. It is not the intention of the bill to subsidize interest rates. In fact, the cost-of-money formula is about equivalent to the interest rate paid by larger corporations for their compliance expenses raised through pollution control bonds sponsored by local governmental authorities.

3. *The bill would consolidate several existing sections*—The bill would consolidate at least three subsections of section 7(b) of the Small Business Act and might possibly extend to other related provisions of the law, such as section 7(g) on water pollution.

4. *Laws and regulations of state and local governments are mentioned* in the bill, but the entitlement to SBA loan assistance is based upon the requirement that any such regional, state, or local rule must be based upon a specific governing Federal statute. This assures that Federal assistance is matched with the Federally-created problem.

5. *A ceiling on the maximum amount* of this provision has been added to this year's bill as a result of discussions with Rep. Wright Patman and his staff. The ceiling is equal to that applying to other sections of 7(b) of the Small Business Act (which is presently $500,000 for businesses).

6. *Identifying the specific compliance action* has been made an even more rigorous requirement in this year's bill by the addition of the language ". . . requirement imposed *on such concern . . .*"

Mr. Chairman, it has become well-known that the series of new laws upgrading environmental and consumer standards under Federal deadlines has caused unintended hardship for smaller and partially older businesses. This is especially true in times of stringent credit and money availability.

The Council on Environmental Quality recently published a report predicting that perhaps ⅓ of the companies closing down in the next few years would do so directly as a result of the inability to comply with environmental standards. The study said that these closings might be concentrated in some industries such as fruit and vegetable canning where a significant proportion of smaller firms might be forced out of business.

The Subcommittee can imagine that the air or water pollution control equipment required by any business might add substantially to cost without adding at all to sales or profits. As a result, many valued, long-established firms across this country will be forced to close their doors as casualties if Congress does not act.

In summary, the Government has created a problem in the environmental area which is most severe for the small businessman. S. 804 attempts to provide a remedy addressed to that problem. The bill would provide a framework for making small business a partner in the cause of a better environment rather than a victim of that cause. I hope this Subcommittee will bring its expertise to bear in further improving this bill, so that it might gain the support of both Houses of Congress and thereby help thousands of small business firms to remain alive and serve their customers, their neighborhoods and their communities.

Mr. STEVENSON. Mr. President, I ask unanimous consent that I may be permitted to modify my amendment No. 134 by striking lines 3 through 5.

The effect of this modification would be to delete the provision in the amendment referring to 3-percent loans to the victims of disasters. I make this request reluctantly, but in the hopes of improving the chances of its passage.

Mr. TOWER. Mr. President, reserving

the right to object, is my understanding correct that the modification requested by the Senator from Illinois was simply with respect to that one relating to a change in the interest rate from 3 to 5 percent?

Mr. STEVENSON. The understanding is correct. The modification would leave the 5-percent loan rate unaffected by my amendment.

Mr. TOWER. I have no objection.

The PRESIDING OFFICER. Without objection, the amendment is modified.

The amendment, as modified, is as follows:

On page 2, line 8, strike out "$2,500" and insert in lieu thereof "$4,000".

On page 3, after line 17, add the following new subsection:

"(c) Notwithstanding the provisions of any other law, in the case of a disaster occurring on or after April 20, 1973, the Secretary of Agriculture shall make disaster loans at the same rate of interest and with the same forgiveness provisions applicable to Small Business Administration disaster loans pursuant to this section."

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I yield 1 minute to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 minute.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, with respect to amendment No. 134, which is to be voted on at 1 o'clock, is the question divisible between lines 1 and 2 and the remainder of the amendment?

Mr. TOWER. Mr. President, the Senator from Illinois just modified the amendment to strike out the interest rate provision.

Mr. JAVITS. Mr. President, I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged to neither side.

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

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. JAVITS. Mr. President, will the Senator from Texas yield me 1 minute?

Mr. TOWER. Mr. President, I yield 1 minute on the amendment to the Senator from New York.

Mr. JAVITS. Mr. President, is the question divisible as between lines 1 and 2 and the remainder of the amendment?

The PRESIDING OFFICER. The amendment is so divisible.

Mr. JAVITS. Mr. President, I demand that the amendment be so divided.

The PRESIDING OFFICER. The amendment will be so divided, and there will be yea-and-nay votes on each part.

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. Mr. President, is the current parliamentary situation that at 1 o'clock we will vote on the first part of the amendment of the Senator from Illinois and then immediately following we will vote on the second part?

The PRESIDING OFFICER. The Senator from Texas is correct.

Mr. JAVITS. Mr. President, the author of the amendment has just explained to me that he struck out what he did in deference to my views and the views of other Senators.

He would prefer to have the amendments voted on en bloc. Therefore, Mr. President, with the permission of the manager of the bill, I ask unanimous consent to vacate the demand which I have made and which the Chair has granted and ask unanimous consent that the amendment may be voted on en bloc.

Mr. President, I might state in deference to the views of the Senator from Illinois that if the first part goes down with the rest of the amendment, if it should be rejected, I would seek to insert that as a separate amendment, or perhaps the Senator from Illinois would.

I ask unanimous consent that the order pursuant to my unanimous-consent request that there be a division of the amendment be vacated and that the amendments be voted on en bloc.

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

Mr. TOWER. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum with the time consumed to be charged to neither side.

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

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENSON. 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. STEVENSON. Mr. President, how much time remains to me on my amendment?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. STEVENSON. Mr. President, this amendment has now been modified so as to make only two changes in the Taft amendment. The first change is to increase the maximum forgiveness to $4,000 from the $2,500 provided in the Taft amendment. I emphasize that this is not an outright forgiveness; it is a maximum forgiveness, scaled back for those whose income exceeds $10,000.

Under the amendment, interest rates on loans to disaster victims would be continued at the present 5-percent rate. It is not a generous program—not for those suffering the consequences of a natural disaster.

The amendment makes one further change in the Taft amendment. It provides that the assistance will be available on the same terms to those eligible for assistance from the Farmers Home Administration. Without that part in this amendment, the Senate would be saying, in effect, "Those eligible for Small Business Administration relief will be eligible for loan forgiveness or an outright relief grant, but you who reside in the countryside, you who live on the farms and are eligible for FHA assistance, you do not get the forgiveness or the outright grants for disaster relief."

Mr. President, that is an intolerable distinction. It is a discrimination against the farmer such as has never been accepted intentionally by this body before. It was rejected this morning when the Senate adopted the Eagleton amendment. It should be rejected again.

The PRESIDING OFFICER. All time of the Senator from Illinois has expired. The Senator from Texas has 3 minutes remaining on the amendment.

Mr. MONTOYA. Mr. President, New Mexico has had a difficult time with the weather over the past few months, and it appears as if we will continue to have problems in the coming months.

This past winter was a very severe one. In December and January and February and March, we experienced numerous snow storms, and there was deposited on the mountains a snow pack of normal to above-normal depth. Then came the end of March and early April. March must have come in like a lamb in New Mexico, Mr. President, because it went out like a lion. In a 2-week period, the northern part of my State was buffeted by a series of blizzards, one coming in as the earlier one went out. The situation with respect to snowfall in New Mexico had already been serious, and these blizzards made it disastrous.

Governor King carefully assessed the damage done to the State, and, on April 26, requested the President to declare 11 counties in northern New Mexico a major disaster area. Last week, the President did declare nine counties in the area a disaster area.

It has been estimated that the storm did at least $17,092,487 worth of damage. Public property damage in the 11 counties is estimated at $9,249,991. Private damage now visible and accountable is estimated at $7,842,946. Most of this loss is attributable to livestock losses.

Now with the coming of warmer weather, the annual spring thaw has begun and there is a danger of floods. Good advanced planning in the state and the absence of extremely warm temperatures so far has prevented major flooding, but the danger remains very great. The snowpacks are deep, and there is a tremendous amount of water in the mountains waiting to be released.

There is no apparent reason to me why people suffering from this or other disasters occurring after April 20 should be treated differently from those suffering from earlier disasters.

I realize that the President has proposed comprehensive, new disaster relief legislation, and I think some of his proposals are very good: Unifying what is now a divided responsibility for disaster relief, for example, is a step which needs to be taken. I imagine, however, that it will take some time for this legislation to be enacted. In the meantime, ranchers in New Mexico, soybean and cotton growers along the Mississippi, and many other victims of recent disasters are go-

ing to be faced with assuming a greater portion of their losses than those assumed by other disaster victims. The date of the disaster should not be a factor in determining the quality or quantity of assistance offered to the victim.

I think there are inequities in the present situation. I think these inequities would be exaggerated were we to leave this situation as it is now. Therefore, I want to lend my support to the amendment offered by Senator STEVENSON. I think that until the Congress can carefully consider comprehensive new legislation, Senator STEVENSON'S proposal ought to be the law.

Who yields time?

Mr. TOWER. Mr. President, is it out of order to suggest the absence of a quorum?

The PRESIDING OFFICER. Except by unanimous consent.

Mr. TOWER. I ask unanimous consent that I may suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

The question is on agreeing to the Stevenson amendment, as modified, to the amendment of the Senator from Ohio (Mr. TAFT).

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 Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Texas (Mr. BENTSEN) is absent on official business.

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

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from North Carolina (Mr. HELMS).

If present and voting, the Senator from Minnesota would vote "yea" and the Senator from North Carolina would vote "nay."

I further announce that, if present and voting, the Senator from Iowa (Mr. HUGHES) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Illinois (Mr. PERCY) is absent by leave of the Senate on official business.

The Senator from Colorado (Mr. DOMINICK), the Senator from North Carolina (Mr. HELMS), and the Senator from Virginia (Mr. SCOTT) are absent on official business.

The Senator from Kansas (Mr. DOLE), the Senator from Hawaii (Mr. FONG), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

Also, the Senator from New Hampshire (Mr. COTTON) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

On this vote, the Senator from North Carolina (Mr. HELMS) is paired with the Senator from Minnesota (Mr. HUMPHREY). If present and voting, the Senator from North Carolina would vote "nay" and the Senator from Minnesota would vote "yea."

The result was announced—yeas 50, nays 31, as follows:

[No. 144 Leg.]

YEAS—50

Abourezk	Fulbright	Moss
Aiken	Gravel	Muskie
Allen	Hart	Nelson
Bayh	Haskell	Pastore
Bible	Hatfield	Pearson
Biden	Hathaway	Pell
Brooke	Huddleston	Randolph
Burdick	Inouye	Ribicoff
Byrd, Robert C.	Jackson	Schweiker
Cannon	Javits	Scott, Pa.
Church	Johnston	Sparkman
Clark	Long	Stevens
Cook	Magnuson	Stevenson
Cranston	Mansfield	Symington
Domenici	McGovern	Weicker
Eagleton	Metcalf	Williams
Ervin	Montoya	

NAYS—31

Baker	Curtis	Nunn
Bartlett	Eastland	Packwood
Beall	Fannin	Proxmire
Bellmon	Goldwater	Roth
Bennett	Griffin	Stafford
Brock	Gurney	Taft
Buckley	Hansen	Talmadge
Byrd, Harry F., Jr.	Hollings	Thurmond
Case	Hruska	Tower
Chiles	McClellan	Young
	McClure	

NOT VOTING—19

Bentsen	Hughes	Percy
Cotton	Humphrey	Saxbe
Dole	Kennedy	Scott, Va.
Dominick	Mathias	Stennis
Fong	McGee	Tunney
Hartke	McIntyre	
Helms	Mondale	

So Mr. STEVENSON'S amendment (No. 134), as modified, to the Taft amendment (No. 138) was agreed to.

Mr. STEVENSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TAFT and Mr. CRANSTON moved to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. TAFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

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

Mr. TAFT. I yield.

Mr. TOWER. Mr. President, I should like to inquire as to the parliamentary situation, for the benefit of Senators who want to make their plans for the afternoon.

The current unanimous-consent agreement provides that the amendment of the Senator from Ohio will be voted on not later than 1:45. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. TOWER. Would the Chair please advise the Senate as to how much time remains on the amendment of the Senator from Ohio?

The PRESIDING OFFICER. Twenty-eight minutes.

Mr. TOWER. Fourteen minutes to a side?

The PRESIDING OFFICER. The Senator is correct.

Mr. TOWER. I thank the Chair.

Mr. TAFT. I yield myself 1 minute.

Mr. President, I have no additional requests for time. I simply want to reaffirm, before I yield back the remainder of the time, that with the changes that have been brought about in the Taft amendment by the Stevenson amendment, I would still support the amendment. While the changes that have been made may be a little high in cost—and we may have some difficulty in getting the bill through because of this—I think they are fair and equitable, as I said when I spoke earlier on the amendment. I have no further statement to make on the amendment.

I would be glad to yield time. If no one desires time, I will yield back the remainder of my time on the amendment.

Mr. TOWER. Mr. President, I have no desire to belabor the matter. I have already stated in detail my objections to the amendment of the Senator from Ohio.

I simply reiterate that I think that with the comprehensive disaster bill now before the Committee on Banking, Housing and Urban Affairs, it is inappropriate to legislate on disasters by amendment on the Senate floor, when it is a matter that is going to receive extensive attention from the committee and will have extensive hearings. Therefore, I think it is unwise for us to legislate on the matter at this time, and I will oppose the amendment of the Senator from Ohio.

I am prepared to yield back the remainder of the time in opposition to the amendment.

Mr. CRANSTON. I will yield back the balance of my time, after I speak for about 60 seconds.

Mr. TOWER. I yield time in opposition to the amendment to the Senator from California.

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

Mr. CRANSTON. I yield.

Mr. RANDOLPH. I wish to ask a question of the able Senator from Texas.

I am not certain on which premise the Senator bases his opposition to the amendment of the Senator from Ohio.

Mr. TOWER. Among other considerations, primarily the fact that we have before us a recommendation from the administration of a comprehensive disaster relief bill, and there will be hearings on it. That, no doubt, will attract a great deal of attention on the part of the Senate. I simply feel that that is the more orderly way to legislate on the matter, rather than trying to legislate disaster relief by amendment on the floor.

Mr. RANDOLPH. This is a vital subject, and I very briefly comment. Over a period of 5 or 6 years in the Committee on Public Works we have given careful

consideration to disaster relief. From our committee came the broad disaster relief program of 1970, the first in the country, which took care of the problems of Hurricane Agnes. Senator BAYH was helpful in guiding that measure to passage. We, in the committee, have a Disaster Relief Subcommittee, which is chaired by the able Senator from North Dakota (Mr. BURDICK), and which is much involved in these matters. The ranking minority member of the subcommittee, Senator DOMENICI, has taken an active interest in these inquiries, and the other subcommittee members, Senator CLARK, Senator BIDEN, and Senator BUCKLEY, are concerned with improving the basic disaster relief law. Senator BURDICK has recently conducted field hearings in Biloxi, Miss., Rapid City, S. Dak., and Wilkes-Barre, Pa. Early next month additional hearings will be held in Elmira and Corning, N.Y., and further hearings will be scheduled to consider the administration's proposals to amend the Disaster Relief Act of 1970.

I desire to have the feelings of the capable Senator from Texas (Mr. TOWER) as the situation affects action in the committee of which he is a member.

Mr. TOWER. I am certain, on all aspects of the administrative proposal over which we have jurisdiction, we will pay very close attention. I know the position of the chairman, but I think we are of like mind, and there will be consideration.

Mr. RANDOLPH. I thank the Senator.

Mr. CRANSTON. I would like to say in support of the amendment that I totally agree with the Senator from Texas. We should consider long-range legislation that has been submitted by the administration. We will do that. However, this legislation is designed to deal with the present situation and certain unfairnesses in the present situation, and those people who formerly would have been entitled to $5,000 forgiveness.

The PRESIDING OFFICER. The Senator will please suspend. The Senate will be in order.

The Senator may proceed.

Mr. CRANSTON. One of the purposes of this legislation is to assist people who would have had substantial help until April 28, who are now entitled to little help, and this is to help them until we get a bill on a more permanent basis and legislation dealing with the proposal submitted by the administration.

In the meantime, this amendment, which raises it to $4,000 and keeps interest at 5 percent, is a very good amendment and insures equity between the owners of farms under the Farm Home Administration, and other people who suffered disasters who were dealt with through SBA.

Mr. RANDOLPH. Mr. President, will the diligent Senator yield?

Mr. CRANSTON. I yield.

Mr. RANDOLPH. I recall that when we had the $5,000 provision that at least one Senator from California—and I am not certain at the moment; I recall Senator TUNNEY having talked with me—there were instances that were widespread of misuse or abuse of the $5,000 forgiveness provision. Is that correct?

Mr. CRANSTON. The Senator is correct. There were abuses. I think that SBA learned from that experience and there is a little likelihood of abuse. I do not favor forgiveness as a principle, but in the interim period we should be providing it to people who suffered disasters recently, and not have the April 20 cutoff.

Mr. RANDOLPH. I agree that we must help those who have been displaced and who lost property from disasters such as hurricanes, floods, and earthquakes, because we should give citizens the feeling that Congress is conscious of their plight and a conscience that Congress must have and a sense of fairness, in this matter. Is that the Senator's feeling?

Mr. CRANSTON. It is, and I feel, as I know the Senator feels, that we should treat citizens on an equal basis and we should not have a gap so that people would not be treated as people were treated earlier.

Mr. RANDOLPH. We must surely do that, so that equity be provided.

Mr. CRANSTON. We must.

Mr. TOWER. Mr. President, I am prepared to yield back my time.

Mr. TAFT. I am prepared to yield back my time.

Mr. MAGNUSON. Mr. President, will the Senator yield to me for 2 minutes on another matter? I must leave the Chamber, and I would appreciate it if the Senator would yield.

Mr. TOWER. I yield 2 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

NOMINATIONS OF ROBERT H. MORRIS OF CALIFORNIA AND WILLIAM L. SPRINGER OF ILLINOIS TO BE MEMBERS OF THE FEDERAL POWER COMMISSION

Mr. MAGNUSON. Mr. President, on the Executive Calendar are two nominations for the Federal Power Commission: Robert H. Morris, of California; and William L. Springer, of Illinois, a former Representative who is well known to many of us here. I had thought that the nominations were to be brought up today at approximately 1:15 p.m.; but apparently the situation is such that they cannot be brought up today. The Committee on Commerce yesterday suggested that the name of Robert H. Morris be put over for confirmation until after the recess, and that the name of William L. Springer be taken up separately. The leadership today has decided to take them up on Monday.

I cannot be here on Monday, but I desire to announce publicly now, as chairman of the Committee on Commerce, and the one who held hearings, that I wish to be recorded in favor of Mr. Springer's nomination.

LEAVE OF ABSENCE

Mr. MAGNUSON. Mr. President, I ask unanimous consent that I may be excused from attendance on the sessions of the Senate on Monday and Tuesday of next week for family reasons.

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

AMENDMENT OF SMALL BUSINESS ACT

The Senate continued with the consideration of the bill (S. 1672) to amend the Small Business Act.

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

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

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Ohio, as amended. 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 Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from California (Mr. TUNNEY), are necessarily absent.

I further announce that the Senator from Texas (Mr. BENTSEN), is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS), is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Iowa (Mr. HUGHES), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Illinois (Mr. PERCY) is absent by leave of the Senate on official business.

The Senator from Colorado (Mr. DOMINICK), the Senator from North Carolina (Mr. HELMS) and the Senator from Virginia (Mr. SCOTT) are absent on official business.

The Senator from Kansas (Mr. DOLE), the Senator from Hawaii (Mr. FONG) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

Also, the Senator from Kentucky (Mr. COOK) the Senator from New Hampshire (Mr. COTTON), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

On this vote, the Senator from Kentucky (Mr. COOK) is paired with the Senator from North Carolina (Mr. HELMS). If present and voting, the Senator from Kentucky would vote "yea" and the Senator from North Carolina would vote "nay".

The result was announced—yeas 59, nays 22, as follows:

[No. 145 Leg.]

YEAS—59

Abourezk	Chiles	Hathaway
Aiken	Church	Huddleston
Allen	Clark	Inouye
Baker	Cranston	Jackson
Bayh	Domenici	Javits
Beall	Eagleton	Johnston
Bible	Eastland	Kennedy
Biden	Ervin	Long
Brock	Fulbright	Magnuson
Brooke	Gravel	Mansfield
Burdick	Hart	McClellan
Byrd, Robert C.	Haskell	McGovern
Cannon	Hatfield	Metcalf

Montoya	Pell	Stevens
Moss	Randolph	Stevenson
Muskie	Ribicoff	Symington
Nelson	Schweiker	Taft
Packwood	Scott, Pa.	Weicker
Pastore	Sparkman	Williams
Pearson	Stafford	

NAYS—22

Bartlett	Fannin	Nunn
Bellmon	Goldwater	Proxmire
Bennett	Griffin	Roth
Buckley	Gurney	Talmadge
Byrd, Harry F., Jr.	Hansen	Thurmond
	Hollings	Tower
Case	Hruska	Young
Curtis	McClure	

NOT VOTING—19

Bentsen	Helms	Percy
Cook	Hughes	Saxbe
Cotton	Humphrey	Scott, Va.
Dole	Mathias	Stennis
Dominick	McGee	Tunney
Fong	McIntyre	
Hartke	Mondale	

So Mr. TAFT's amendment, as modified, was agreed to.

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

The yeas and nays were ordered.

Mr. PELL. Mr. President, I wish, at the outset, to commend the senior Senator from California on his leadership in bringing this legislation to the floor.

As a Senator from a State in which small businesses play a vital role in our economical life, I consider the programs of the Small Business Administration among the most important and productive of all Federal Government programs.

In a national economy in which huge corporations predominate, the SBA is one place in the Federal Government to which the small businesses can look for assistance in meeting the unique problems that confront them.

The legislation now before us, extending the SBA funding authority, is essential legislation, and I express my admiration for the continued role played by the senior Senator from California (Mr. CRANSTON) in trying to make certain that the small businesses of our country are given equitable treatment.

Mr. President, I send to the desk an amendment on behalf of myself, the senior Senator from Rhode Island (Mr. PASTORE), the senior Senator from Massachusetts (Mr. KENNEDY), the junior Senator from Massachusetts (Mr. BROOKE), the senior Senator from California (Mr. CRANSTON), and the junior Senator from California (Mr. TUNNEY).

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk proceeded to state the amendment.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 3, strike out lines 6 through 10.

On page 3, line 11, strike out "(e)" and insert in lieu thereof "(c)".

On page 3, after line 22, add a new section as follows:

LOANS FOR ADJUSTMENT ASSISTANCE IN BASE CLOSINGS

SEC. 4. The first sentence of section 7(b) of the Small Business Act is amended by adding after paragraph (6) the following new paragraph:

"(7) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in continuing in business at its existing location, in reestablishing its business, in purchasing a new business, or in establishing a new business if the Administration determines that such concern has suffered or will suffer substantial economic injury as the result of the closing by the Federal Government of a major military installation under the jurisdiction of the Department of Defense, or as a result of a severe reduction in the scope and size of operations at a major military installation."

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

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of 5 minutes on the pending amendment, the time to be equally divided between the Senator from Rhode Island (Mr. PELL) and the Senator from Texas (Mr. TOWER).

Mr. PASTORE. Mr. President, would the majority leader mind making that request 7 minutes, since I would like to have 2 minutes?

Mr. MANSFIELD. I ask unanimous consent that there be a time limitation of 7 minutes on the pending amendment.

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

Mr. PELL. Mr. President, my State of Rhode Island, as well as the State of Massachusetts, and other States are threatened by manmade disasters ordered by the Defense Department—the recent decisions to close major defense bases, including the Navy Department decision to withdraw all of the Atlantic fleet of ships from Narragansett Bay and to close down the Naval Air Rework Facility at Quonset. Rhode Island with 1/200th of the Nation's population has taken one-sixth of the civilian manpower cuts that the Defense Department has made ordered. Our State has lost half of the military jobs affected nationwide by the base closings.

We expected cuts on a proportional basis, and were prepared to accept them.

When I see a situation of the sort that has happened in our State, involving a clear violation of campaign promises about these bases, I personally think that this is a minor Watergate. The existence of many small businesses is now threatened by the DOD decision.

I believe that when small businesses suffer a disaster such as this they should be given the same relief as those who suffer from a natural disaster.

The amendment I have offered is a straightforward amendment, and one which would provide desperately needed assistance to small businesses in areas affected by the closing of major defense installations.

The amendment provides that small businesses severely affected by the closing of major Defense Department bases or installations, or by severe reductions in the scope of operations of military bases, will be eligible for loan assistance on the same terms as other small businesses which face economic problems because of Federal Government actions.

I offer the amendment, Mr. President, because of the unprecedented economic disaster that will confront hundreds of small businessmen in my State if the base closing plans recently announced by the Defense Department are carried out.

In case some of my colleagues might think I am exaggerating, I want to emphasize that the situation confronting the workers and businessmen of my State is not a routine reduction in force at defense installations. What has been proposed and announced by the Defense Department is an unprecedented close-down of the largest single source of jobs and payroll in our small State.

It involves the elimination of more than 20,000 military and civilian jobs, in a State with a current unemployment rate of more than 6 percent, and with a total working population of 300,000.

To serve the needs of the military and civilian populations of the major Naval bases in Rhode Island, small businesses through the years have made major investments, with the encouragement, and at times with the urging of the Defense Department, which has constantly emphasized the need for the host communities to provide housing, and all the myriad services—service stations, cleaners, motels, apartments, groceries, diaper services—providing both necessities and conveniences for the base populations.

And then precipitously, it is announced that almost the entire base complex in Rhode Island will be closed—not phased out—but shut down abruptly, and arbitrarily.

I agree that businessmen take risks when they invest. I am not proposing that the Federal Government absorb the losses of these businessmen, as the Federal Government has absorbed the losses of major defense contractors who run into financial trouble.

I do believe, however, that the Federal Government has a responsibility to these small businessmen—a responsibility to help them, with loans, to adjust to the new economic situation confronting them as a direct result of precipitate and unpredictable action by the Federal Government.

The Federal Government, the Congress, has clearly recognized and assumed this kind of responsibility in the past. The Congress has in the past authorized disaster loans to small businesses adversely affected by Federal highway construction, by federally financed urban renewal projects, and to small businesses adversely affected by new regulatory policies of the Federal Government.

In the case of base closings, we have a similar situation: a policy decision of the executive branch of the Federal Government will create a first-class economic disaster area.

The Department of Defense, in announcing the plans for base closings throughout the country, estimates the savings will amount to $3.6 billion over the next 10 years. The Defense Department, however, did not bother to calculate the off-setting loss to the small businessmen in Newport, Middletown, Portsmouth, North Kingstown, and East Greenwich, R.I., or to the businessmen

of Long Beach, Calif., or Boston, and Chicopee, Mass.

If we are to have a responsible government, it must be a government that faces up honestly and squarely to the consequences of its actions and policies.

As this bill now stands, the Federal Government stands ready to provide loans to small businessmen who suffer severe economic losses because of a natural disaster—an act of God for which the Federal Government was in no way responsible. Are we to deny similar assistance to small businessmen who are faced with an economic disaster that results directly from a conscious, planned, deliberate decision of the Federal Government?

Mr. President, I urge approval of the amendment.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Senator from California is recognized for 2 minutes. The senior Senator from Rhode Island has 2 minutes.

Mr. TOWER. Mr. President, I have 3½ minutes. I yield 1 minute to the Senator from California.

The PRESIDING OFFICER. On the bill?

Mr. TOWER. On the amendment.

Mr. CRANSTON. Mr. President, I support the amendment. I think it is very fair to give people in the small business world who have been the victims of a disaster by virtue of the closing of bases in Rhode Island, Massachusetts, California, and elsewhere, assistance so that they might get on their feet and start some other businesses if these bases are closed.

I, therefore, support the amendment.

Mr. PASTORE. Mr. President, naturally I rise in support of the amendment. I would say, in complementing what has been said by my junior colleague, that we would not be advancing the amendment if equity and justice had been meted out to us in Rhode Island. As a matter of fact, as has been pointed out by my colleague, that Rhode Island has less than 1 percent of the population of the country, and we are sustaining 50 percent of the cuts made nationally. In one small State, we will lose in payroll alone one-fourth of a billion dollars a year. That is a staggering blow to Rhode Island. This came right out of the blue.

We have been trying to find out for a long time exactly what the Defense Department and the Navy had in mind about these installations. They would not tell us. Finally, when we talked to the Secretary of Defense, I asked, "Will you give us an opportunity to do something about this?"

He said, "No, when we make an announcement, it will be final."

I do not see how anyone can think that is fair to the working people of my State, people who have been loyal civilian workers of the Federal Government.

Mr. President, we did this once before when the Senator from Montana (Mr. MANSFIELD) introduced an amendment to the effect that where there was a dislocation because of international agreements on disarmament, these people would be given special consideration.

We are now saying that where 5,000 workers are involuntarily laid off in my State, some consideration ought to be given to the small businesses that will be affected.

I brought this matter up when Mr. Kleppe came before our Appropriations Committee only a week or so ago. And he told me at that time that he has this matter very much in mind and will do everything within his power until this law is passed and do whatever he can to assist the small businesses in that locality.

I would hope that the justice we did not receive from downtown will be rendered to us this afternoon when this amendment is overwhelmingly supported and passed.

I thank my colleague for offering the amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD the statement by Mr. Thomas S. Kleppe, Administrator of the Small Business Administration, before the Subcommittee on State Justice and Commerce appropriations.

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

STATEMENT OF THOMAS S. KLEPPE, ADMINISTRATOR; ACCOMPANIED BY H. GREGORY AUSTIN, GENERAL COUNSEL, AND HERBERT T. MILLS, DIRECTOR, OFFICE OF BUDGET AND FINANCE

Senator PASTORE. The next item we will consider is the 1974 budget request for the Small Business Administration.

A total of $248,273,000 is requested in direct appropriations for three accounts, namely:

$22,300,000 for salaries and expenses, a decrease of $260,000 below the 1973 appropriation.

$973,000 for payment of participation sales insufficiences, which is an increase of $3,000 over 1973, and

$225,000,000 for business loan and investment fund, a decrease of $170,000,000 below the 1973 appropriation, made to date.

Also requested is the transfer from the SBA revolving fund to the salaries and expenses account of $69,700,000.

Summary justifications filed in support of the budget requests will be placed in the record.

All right, Mr. Kleppe, you may proceed with your statement on the 1974 fund requirements for the SBA.

Mr. KLEPPE. May I introduce the two gentlemen with me, our General Counsel, Mr. Gregory Austin, and our Director of the Budget, Mr. Herbert Mills.

Let me make some comments mainly to generate some questions you have.

Mr. Chairman, it is a pleasure to appear before you again, this time to discuss the Small Business Administration's budget request for fiscal year 1974. With your permission, I would like to briefly summarize our request.

The budget request for fiscal year 1974 includes (1) $92 million for salaries and expenses of the Small Business Administration; (2) a capital appropriation of $225 million for the Business Loan and Investment Fund; and (3) an appropriation of $973,000 for the payment of participation sales insufficiencies.

Mr. Chairman, if you please, I would like to briefly highlight our plans for fiscal year 1974 and some of our activities in past years prior to getting into the specific appropriation request.

The Small Business Administration budget request for fiscal year 1974 reflects the continued emphasis on the basic objectives of the Agency to provide opportunities for the new small business to enter the economy, the creation of new jobs, maintenance and increasing viability of those existing small businesses and to obtain these objectives through maximum use of the resources available to the Agency with the minimum of Federal outlays.

Senator PASTORE. Maybe you are familiar with this and maybe you are not. But I think you are.

We in Rhode Island have just suffered a severe blow in closing down of 80 per cent of our Naval facilities in our State which means that we stand to lose 5,000 civilian jobs; we stand to lose Navy personnel together with their families, we have had quite a program in housing in order to house these Navy families which may be leaving unless we can do something to reverse this very staggering blow and there is some talk that if this cannot be done that then we want to industrialize that area if we possibly can. This is very desirable property.

We have a fine port there. We have a fine airport. We have all of the facilities that go not only to attract large business, but also small business.

I am wondering in a situation of that kind is any special consideration given by the small business administration to matters of this kind?

Mr. KLEPPE. Yes, Mr. Chairman. I want to qualify my answer to the effect that we don't have the special program that adapts itself only to that kind of an activity.

Senator PASTORE. That is true. But you have Charlie Fogarty up there in Rhode Island. I don't know whether or not he has a certain amount allocated to him that he can deal with. If he has a certain amount allocated, then that is it. In view of the fact that a thing of this kind comes along, it depends on whether or not you decide to allocate more to him.

Mr. KLEPPE. You are talking about direct funds I think when you make that statement.

Senator PASTORE. Yes.

Mr. KLEPPE. That would be true because we do have a serious limitation on direct funds. But insofar as guarantee authority and guarantee funds working with the banks——

Senator PASTORE. There is a limit within what you are asking?

Mr. KLEPPE. Yes. But it is very high. We will enroll as high and strong as we can, as much as the traffic will bear out in the community.

Senator PASTORE. But in the event that the situation becomes such that it might slow down the applications unless they got more help or something of that kind, you can shoot somebody up from your organization here in Washington to make some transfers to help them out in case of emergency?

Mr. KLEPPE. Certainly. We would be glad to do that. We have done this, for example, when that situation struck Seattle—so we can inject additional support and power in there. We do because this is part of our objective of increasing and helping the economic structure of a community that suffers from that.

Senator Mansfield, for example, introduced an amendment that would provide some additional support from SBA in the event of base closings, unemployment situation. So we do have latitude where we would address additional powers, but the greatest share of that power comes from the Guaranty Loan program which has a limit, but virtually no limit. We have a great deal of expansion.

The lending levels for business type loans (nondisaster) will be the greatest in the history of the Agency. For 1974, SBA plans to approve $2.6 billion in loans to small businessmen.

This compares to actual approvals of $1.4 billion in fiscal year 1972, and an estimated $1.9 million in 1973, or an increase of 33 per cent over 1973. This dramatic increase is directly related to the SBA's intense efforts in motivating the participation of the private sector in SBA's lending programs.

SBA has conducted a successful sales campaign on banks and other lending institutions, and they have responded favorably. Two-thirds of the nation's banks are now participating in SBA's programs. In fiscal year 1974, 90.8 per cent of the value of SBA's business loans will be provided under the guarantee program. This compares to 83.5 per cent in fiscal year 1972 and 83.3 per cent in fiscal year 1973.

Senator PASTORE. Before you go any further, maybe I am anticipating a little bit—if I am, we can wait until you explain it—what is our record of success?

Mr. KLEPPE. May I answer that by telling you what our cumulative losses are?

Senator PASTORE. You are going to speak in percentages or dollar?

Mr. KLEPPE. Percentages. Mr. Chairman, our cumulative loss ratio, percentage, in business loans is just under six per cent.

Senator PASTORE. How much would you say that we had guaranteed over the years—when you say six per cent, this is overall since the time of existence?

Mr. KLEPPE. That is correct.

Senator PASTORE. It is cumulative.

Mr. KLEPPE. Cumulative, and projected, actual and projected.

Senator PASTORE. How much have we guaranteed in dollars that this six per cent reflects upon?

Mr. MILLS. We can give it to you in the business loan program, the biggest one of all. We have guaranteed over $3.8 billion.

Mr. KLEPPE. Cumulatively?

Mr. MILLS. I am sorry.

Mr. KLEPPE. Mr. Chairman, I don't believe we have with us—yes, it is, too. That is correct.

Senator PASTORE. You stick with that figure, $3.8 billion?

Mr. MILLS. Through December 1972.

Senator PASTORE. From the beginning. What was the time of the beginning?

Mr. MILLS. This started in 1954.

Senator PASTORE. From 1954 to 1972 we have a guarantee of $3.8 billion in business loans?

Mr. KLEPPE. That is SBA share, our share. The total gross amount of those loans is different.

Senator PASTORE. When you sustain a loss of six per cent, that is all SBA loss?

Mr. KLEPPE. Yes.

Senator PASTORE. But the fact still remains that this six per cent loss that you sustained did enable us to guarantee together with cooperation of the banks not only 3.8 of our own money, but how much of their money?

Mr. KLEPPE. About $750 million.

Senator PASTORE. Would you leave it at that or some other elements come into this?

Mr. KLEPPE. I think we can fairly add in what our participation figures are, also.

Senator PASTORE. What is that?

Mr. KLEPPE. SBA share, $1.8 billion.

Senator PASTORE. What does that mean?

Mr. KLEPPE. This is probably where we put up 75 per cent of the money and the bank puts up five, or 50–50.

Senator PASTORE. The other is 90–10?

Mr. KLEPPE. That is correct.

Senator PASTORE. When we talk about a six per cent cumulative loss, we are talking about the whole ball of wax. So you have to add the 1.8?

Mr. KLEPPE. Yes. So it is $5.6 billion, 5,650,000,000 is the total and the gross, including what the banks cover and everything would be $6.9 billion, almost $7 billion.

Mr. Chairman, I would like to add one thing into this question you have asked. One specific loan program we had, which is the economic opportunity loan program, which is part and parcel of the OEO program, our losses there cumulatively and projected are running at about 33 per cent.

Senator PASTORE. They are large there, aren't they?

Mr. KLEPPE. Yes.

Senator PASTORE. That is the program that is being phased out, isn't it?

Mr. KLEPPE. No. That part is not being phased out as far as we are concerned. But I would add one other qualifying factor here.

Senator PASTORE. I would like, Mr. Kleppe, for you to elaborate in the record a little bit about that. There are a lot of people who are quite disturbed over the fact that while our heart is in the right place the direction has not been as salutary as we would want it to be.

In other words, they feel that in many, many instances some of these people were set up in business, they did not have the proper background in order to make it a successful venture and then they ended up within a short time just closing the place down or just saying, "Look, I can't do it."

I would like to get your reaction on that. I think that if we are going to help people there may be other more successful ways of doing it.

Mr. KLEPPE. I would like to elaborate on that a little bit because you hit a very sensitive area. Number one, we aren't authorized to grant 100 per cent guarantee in that loan program. Twenty-eight months ago when I came to SBA we were offering 100 per cent guarantee.

What did we find? We found some banks making these EOL loans to fulfill a social commitment in their area and 60 days, 90 days later when they found out that man wasn't in business at all, never intended to be in business, but went out and bought a car, a boat or paid some bills, called upon SBA for his guarantee.

We were obviously with a loss. We immediately discontinued 100 per cent guarantee even though it is authorized by law to go that high. We say if a bank is going to go in and make a loan to a legitimate business we want him to have part of the action because then we will have better credit judgment, we will have better follow-through and more expertise. That is Number one.

Number two is the other thing you asked about, and that is the management know-how of these people is at a relatively low level. We know from Dun & Bradstreet's Survey that 67 per cent of businesses that go broke not because of the shortage of money, but because of the lack of management know-how.

So we have tried to find every capability within the framework of our total social structure, not just SBA, to find ways to increase and improve the management and technical assistance available to not only minority business, but all small business. It is a difficult area. It is a most difficult area.

But suffice it to say that we today are learning a lot better how to make loans so that those people have a better chance of success than they had before, vis-a-vis the fact that we hold management seminars, we now know if we can get a small businessman to come to the seminars and learn the basics of management that his chance of success is about 50 per cent greater than the man that doesn't come.

So that ought to tell us something.

The other thing is that we have got a higher loan limit in that EOL loan category so we don't get criticized and caught short on the short funding part.

It used to be $25,000. Congress raised it to $50,000 last year. So it gives us a little more latitude insofar as the funding side of the thing is concerned.

All in all, we are hopeful over this program, but there is one saving phase to me, and I give it to you as not a justifying consolation, but as a fact, that in the OEO program, Mr. Chairman, of which this loan program is authorized, I believe I can say to you honestly that it is the best section in the OEO Bill because it is a business-oriented section and we do get $2 out of $3 back that we lend out, even with the high rate of loss.

In accordance with all other SBA programs, it is by far the biggest loss ratio.

Senator PASTORE. What is justification for your saying that?

Mr. KLEPPE. It is not a justification. It is only a comment about the OEO section. This is a loan, business oriented section that we have in the EOL program.

Senator PASTORE. Is this the 100 per cent you are talking about?

Mr. KLEPPE. Yes. It is 100 per cent guarantee allowable. We do not permit it.

Senator PASTORE. What do you permit?

Mr. KLEPPE. Ninety per cent. We make a bank take 10 per cent of the action.

Senator PASTORE. Heretofore you say when you came into the organization at that time it was 100 per cent.

Mr. KLEPPE. Yes.

Senator PASTORE. What are the mechanics? I am a member of a minority group, for instance, I am out of a job, but I think I would like to run a gasoline station. Who do I go to? Do I go to the SBA or to the bank?

Mr. KLEPPE. Either one. Most generally you should go to the bank.

Senator PASTORE. Let's assume I go to the bank. First of all the bank doesn't know me. I walk in in overalls. I have patches in my pants. God knows who can you see in the bank. But you do see somebody, I suppose, ultimately. They discuss this matter. What does the bank do? What kind of investigations do they make?

Mr. KLEPPE. The bank right now is probably thinking the only way I can talk to this man is if we can get 100 percent guarantee for him.

Senator PASTORE. Does the bank call you up?

Mr. KLEPPE. Probably. Yes.

Senator PASTORE. The bank gets in touch with you?

Mr. KLEPPE. Yes. The man, too, because we want to see him.

Senator PASTORE. You are in on it as much as the bank?

Mr. KLEPPE. Sure. But we weren't back in those days.

Senator PASTORE. Why weren't you? What was the system?

Mr. KLEPPE. I don't know. The bank would just make the loan and offer 100 per cent guarantee on him because it was a blanket guarantee that came from SBA.

Senator PASTORE. How could they give 100 per cent guarantee without conferring with the SBA.

Mr. KLEPPE. I don't know.

Senator PASTORE. You don't know?

Mr. KLEPPE. I can't answer that before I came. I can tell you now. They get in touch with SBA, we talk to the man.

Senator PASTORE. That is what you are doing now?

Mr. KLEPPE. You bet. We have to approve it, too.

Senator PASTORE. In order to emphasize and dramatize the change you have made, could you get for the record for me how that would happen that a bank would assume the granting of a loan which would have to be guaranteed by the SBA at 100 per cent and yet the SBA never had any part in whether or not the loan should be made in the first place.

Mr. KLEPPE. Yes. We will supply that.

Senator PASTORE. Will you?

Mr. KLEPPE. Yes. However, I don't want to exonerate SBA——

Senator PASTORE. I don't mean this as a criticism.

I would like for the record to show the drama of whatever renovations or innova-

tions that you have made in order to improve the situation because I tell you, there is a lot of spirit in the Congress to help these people get themselves into business. The unfortunate thing is you state there is a 33 per cent loss.

Mr. KLEPPE. In that one loan program. Mind you, Mr. Chairman, we make a lot of minority loans and they are part and parcel of that figure.

Senator PASTORE. Those are people already in business.

Mr. KLEPPE. Not all, no. There are some new ones there, too, but that is a business loan program that has a higher limit. We have many minority loans in that 7(a) category which represents that six per cent.

Senator PASTORE. Make the distinction between what you just got through talking about and this business loan.

Mr. KLEPPE. I make the distinction this way: the credit standards under the 7(a) business loan category are much tougher than they are in the EOL category because of what we believe the true intent of Congress was when that section——

Senator PASTORE. What is the measure. Of whether you come under one or the other? When the applicant comes in, I am a member of the minority group——

Mr. KLEPPE. The size of the loan would be something as a limit under EOL, $50,000, under 7(a) it is $350,000. The credit standards that are applicable here insofar as this man getting a start or expanding a business and his credit standards are lower where we couldn't qualify him under 7(a) at all, we would look at him under EOL.

Senator PASTORE. Is the formula the same, 90–10?

Mr. KLEPPE. Yes.

Senator PASTORE. Only the ceiling is higher?

Mr. KLEPPE. Only the ceiling is higher. That is correct.

Senator PASTORE. But there is a distinction between the two insofar as to what the applicant is entitled to?

Mr. KLEPPE. Yes. There is another distinction. The interest rate.

Senator PASTORE. Isn't it a fact that under the OEO those are cases where a certain individual has never been in business before?

Mr. KLEPPE. Not only that, that is part of it, but he also might be in business and want to expand, need some additional funding.

Senator PASTORE. Isn't that the same criteria when you go in for a business loan?

Mr. KLEPPE. It can be. But the standards of his credit stability at that point, and what you look at to make a loan are probably different.

Senator PASTORE. Why are they different? That is what I am getting at, insofar as it pertains to the applicant, is it because he has been in business before or he is not that poor? How do you decide what category he is going to go under?

Mr. KLEPPE. That is just what I have been answering. One is what are his needs from the standpoint of the amount of the loan. If he needs $100,000 obviously we can't look at him from EOL.

Number two, if his credit standards, in his P & L, net worth, his operating statement is such that it is lower than the standards we require over here in 7(a), we will look at him.

Senator PASTORE. In other words, he has got to be poorer?

Mr. KLEPPE. Yes. This is why our loss ratio is so much greater.

Senator PASTORE. In other words, he has to be a pretty poor fellow to come under this 100 per cent thing we used to have before.

Mr. KLEPPE. He has to be poorer than he is under 7(a).

Mr. Chairman, one other thing I should say on a differential in these loan programs. If we have got money for direct lending in these categories, the statutory interest rates under 7(a) is five and a half per cent, the statute rate under EOL is six and a quarter per cent. That is another difference.

Senator PASTORE. Because the risk is greater.

Can you state that in figures? We have lost 33 per cent, right? You say it is a good thing, we get $2 out of every $3 we put up. The fact is how much have we lost in dollars?

Mr. KLEPPE. Actual losses, estimated losses combined, $109,900,000.

Senator PASTORE. Say it again.

Mr. KLEEPE. $109.9 million cumulative. That is actual and estimated. Breaking that down, Mr. Chairman, our actual losses have been $36,700,000; but we estimate we will lose $73.2 million in liquidation. So that figure I gave you is 33 per cent of the cumulative total.

Senator PASTORE. You call this a good program?

Mr. KLEPPE. I did not say that, Mr. Chairman.

Senator PASTORE. You said of everything under OEO, this is about the best thing they have got.

Mr. KLEPPE. Under OEO. That is important.

Senator PASTORE. You don't speak well of OEO.

Mr. KLEPPE. Mr. Chairman, OEO has all of the grant programs and this is not a grant program. At least we get $2 out of every $3. I would think that was pretty terrible if this was our 7(a) business loan program. But this is the reason I qualified it to you.

Let's look at it another way, and I know you feel this way. I believe that unless we, through this vehicle, give those people a chance to succeed or a chance to fail, they will never have a chance to succeed. They have got no other place to go if they are going to be in business.

Senator PASTORE. But that isn't the question. That is very philosophical. If you don't give them a chance to fail, you never know whether or not they are going to succeed. That sounds beautiful. That sounds beautiful. But the fact still remains here we are confronted with a problem, we are using taxpayers' money, and we want to help the poor.

The question here is in the doing of this, do we adopt the proper procedures and the proper programs? I realize that today you find that among the poor there is a lot of unskilled help that has to be trained for better things. But the point that I am making is that I wonder sometimes if we do the right thing. Maybe we are doing the right thing.

I am not a protagonist of OEO. Don't get me wrong. As a matter of fact, I think it is regrettable that they are disbanding it. I am going to vote to continue it. That is the way I feel about it.

But I am wondering sometimes if we are not throwing out the baby with the wash water. Because we have had some failures it doesn't necessarily mean helping the poor should be abandoned.

The trouble here is what is the best way to help and what is the most successful way to help? Do we help them well by wasting $109 million as you have said already? Couldn't that $109 million have been spent a lot better if we took these people and trained them to be a carpenter, trained them to be a bricklayer so they could have gone out and got a job, not take somebody who has maybe never had any experience before and say, "I would like to go into clothes cleaning business." He opens it up today and nothing happens. You find out that in three or four months after that you go there looking for him and the place is closed. He has failed.

I wonder if that is the answer. Unless you people downtown who have had the intimate experience with these people come to this Congress and say, "This is the way to help the poor, this is not the way to help the poor," that is the only way we are ever going to resolve this question.

I must say this. I received a beautiful letter from a high school teacher in Ohio. Why they write to me, I don't know. But he has had a seminar of his 9th grade class on this question of reforming the welfare.

This is well done. They have submitted to me a well documented memoranda of what they feel is wrong with the social welfare program and what should be done. I am having it all analyzed because I only got it yesterday. I have got it home.

I tell you that they have some very good suggestions that they are making. First of all, they talk about the make work aspect of welfare, to make people to at least do something that will dignify what they get so that they won't consider themselves paupers, that they are on the dole system, that there ought to be a better program of training these people for useful jobs because somehow many of these people will, they are destined to be born in an environment there if somebody doesn't come in and take them by the hand they are going to end up on relief, too.

There are many ways of doing this. That is the point I am making with you.

Mr. KLEPPE. That is why I recite this. I think it is much better because of this pride factor. They have a chance to go into business. It is not a welfare deal. Sure, we lose 33 per cent. That is better than giving them money, kissing it off, ruining their pride and not giving them a chance to run a business.

Senator PASTORE. The only trouble with this is we can't give it to that many people. This is only a handful of people in comparison to those that really can be helped. In other words, would you help 10 people by putting them in business, or would you help 100 people by training them for a job that might be useful with the same amount of money? That is the question I raise.

Mr. KLEPPE. Of course, this is not a welfare program. It wasn't designed as such.

Senator PASTORE. It turned out to be that, didn't it?

Mr. KLEPPE. You may interpret it that way. I wouldn't dispute that because of our 33 per cent loss. But I thought it was important, Mr. Chairman, that you had the difference between our experience in that loan program versus our other.

Senator PASTORE. This thing is going to come up. As I said before, I don't want anyone to misinterpret my questioning here today. I have to develop these things so that when questions are asked on the floor, I have to be the devil's advocate sometimes.

I am not opposing this program as such. I am trying to extricate from you for the purposes of the record some of the arguments that can be used because I would like to hear the other side of this.

I would like to hear some of these social-minded people come in here and give us an explanation of how good this has been if it has done any good at all.

The same thing happened, of course, with Section 235 and 236 under the HUD Act on building of homes. You have five per cent, and somebody comes in and gets a guarantee from the government and it is supposed to be housing for the poor. There has been a lot of criticism of that program because there have been some failures.

There has been some gouging. But I am not ready to throw out that program because I think the good that has come out of it by far outweighs whatever abuses there have been. The only trouble is that the management has been so bad and the supervision has been so bad that we could have caught a lot of these things.

For instance, on your loan program, I know of some instances that have come to our attention where some of these people haven't been followed up for years.

Mr. KLEPPE. Yes. I am sure that is right.

Senator PASTORE. Why did that happen? If you give a fellow the money to open up

gasoline station, why shouldn't someone from SBA go up there the next week and find out how the fellow is doing?

Mr. KLEPPE. You should if we have the people.

Senator PASTORE. You don't do that. The trouble with us is we don't have the follow-up. We give people money in many, many categories and then we don't follow it up to see where the money has gone.

Mr. KLEPPE. I didn't want to kid anybody. That is still true because we don't have the people to do that kind of job.

Senator PASTORE. I know. But that is where the waste is.

Mr. KLEPPE. That is one of the problems, very definitely. This is one thing about working together with the banks. It is a help. We do get some help in the follow-up you are talking about.

Senator PASTORE. I would hope you would insist upon that, because they have got better faculties than you have. You only have a few people, as I know, in your SEA Office in Providence. But all of our banks are doing very well in Rhode Island. They are building brand-new buildings, they have beautiful Board of Directors, I think they can hire a lot of people to go around and make sure that the money they lend out is really doing these people some good.

Mr. KLEPPE. We push it as hard as we can. We can't make them do it. Therefore, we do run into these difficulties. But it is the kind of a thing——

Senator PASTORE. I am not saying you have to hit them over the head to do it. I think you can have a tremendous amount of influence.

Mr. KLEPPE. Mr. Chairman, I told you about having two-thirds of the banks working with us today, two years ago we only had 8 per cent of the banks that would even work with SBA on the loan.

We believe that is the reason very clearly why we have the fantastic increase in the balance available and it is still going up.

In addition to its lending programs, SBA will provide increased assistance in other program areas. For instance, the surety bond program under which SBA guarantees bid performance bonds needed by small businessmen in order to obtain contracts will increase to $504.0 million in fiscal year 1974, as compared to $163.1 million in fiscal year 1972 and $385.0 million in fiscal year 1973.

The lease guarantee program which permits small businessmen to obtain leases in class A locations will reach $250.0 million (aggregate rent) in fiscal year 1974 as compared to $149.3 million in fiscal year 1972 and $185.0 million in fiscal year 1973.

SBA has been the leader in the Federal Government in building minority enterprise. In 1972, SBA loans to minority businesses amounted to $237.6 million, an increase of 22 per cent over the previous year.

Through March 31, 1973, we have already approved minority loans amounting to $223.3 million, an increase of 43 per cent over the $156.1 million approved for the first nine months of last year.

Our budgeted goal for minority loans in fiscal year 1973 was $434 million. Now, gentlemen, we are not going to make that goal because we are not going to achieve the bank participation which we have planned. As far as the goal for direct SBA dollars, we will achieve that portion of our minority loan goal.

However, the significant thing is that we are continuing to increase every year over prior years and by a good margin. We are going to continue to work with the banks in order to obtain greater participation in the minority loan program. An average of 19 per cent of the SBA business loan dollar has gone to minorities in the last three years, and we are setting a goal of 22 per cent for fiscal year 1974.

Through our prime and subcontract assistance program, which brings together Government buyers and small businessmen, and champions the cause of small business interest in dealing with all Government procurement agencies, $12.6 billion of procurement was awarded to small businessmen in fiscal year 1972. This was the all time record of the Agency. For the first half of fiscal year 1973, we are running 11.6 per cent ahead of the same period in fiscal year 1972.

We are extremely pleased with the success in our prime and subcontract assistance programs, and we are forecasting a further increase of approximately 10 per cent in fiscal year 1974:

Through our Certificate of Competency program, we have had a continuing increase in the number of awards to small businessmen. In fiscal year 1972, 232 awards were made as a result of COC's with a value of $38 million.

So far in fiscal year 1973, we have already made 127 awards with a value of $41 million. We are setting a goal of a 13 per cent increase in fiscal year 1974. The 232 awards made in fiscal year 1972 saved the taxpayers over $5 million.

The 8(a) program of awarding Federal contracts to the socially and economically disadvantaged is up sharply. SBA had forecast a dollar value of $100 million for fiscal year 1972.

We actually achieved $153.4 million which was an increase of 132 per cent over 1971. Our budget goal for fiscal year 1973 was $175 million. We are now anticipating at least $200 million in contract awards. Our original budget goal for fiscal year 1974 was $200 million. We are now estimating that this will hit about $250 million.

The new Limited Small Business Investment Company concept, which is pioneering as a major source of equity financing for minorities had 31 firms which reported activity in 1972. This compared to 21 firms which reported in the previous year.

Capital investment was up 145 per cent at $10.3 million and their financings in minority businesses were up 75 per cent at $3.5 million. We now have 59 licensed firms, and we are looking forward to our next report as of March 31, 1973, which is due to be submitted to SBA by June 30, 1973. We are confident that this report will show even greater increases.

These 59 firms have a private capitalization of $22.5 million and the government lending of $5 million.

The record outlined above in 1973 was accomplished despite the fact that on June 1972, Hurricane Agnes struck the Eastern United States from New York to Florida causing an estimated $2.5 billion in damage to homes, business and public property.

SBA, in responding to the victims of this catastrophic storm, will provide more assistance than in any previous disaster in the history of Agency.

Our current estimate for the disaster loan program for fiscal year 1973 is for over 225,000 loans valued in excess of $1.6 million, and gentlemen, as you know, this does not take into consideration the recent flooding of the Mississippi River and other disasters which are imminent.

Senator PASTORE. How does that work out? Do you lend the money to businesses that have been destroyed?

Mr. KLEPPE. And homes. We have a home program and business.

Senator PASTORE. What has been the situation? How successful is it?

Mr. KLEPPE. Our cumulative loss ratio in our disaster program, in June 30, 1972, it was .4.6. But that is going up.

Senator PASTORE. But it is still better than the overall program, the six per cent?

Mr. KLEPPE. Not anymore, it isn't. It was then, but it isn't anymore.

Senator PASTORE. You mean it has gone over six per cent?

Mr. KLEPPE. Yes.

Senator PASTORE. What accounts for it?

Mr. KLEPPE. Mr. Chairman, we had some serious disasters in very low-income areas in southern Texas, in a very low-income area in all of Puerto Rico. If you take the earthquake area in California, that was a relatively high-income area.

The Hurricane Agnes was in a relatively good-income area. But you get these low-income areas.

Senator PASTORE. Are they forgiven any part of this?

Mr. KLEPPE. Yes.

Senator PASTORE. How much?

Mr. KLEPPE. We have three different disaster programs, the first one was $1800, the second was $2500, and this last one was $5,000. Now the new law that just got put on the books in April.

Senator PASTORE. There were some scandals.

Mr. KLEPPE. I don't think that is why this was done.

Senator PASTORE. You must be kidding. There were some places there where the damage was only about $1800 or $1,000 and they knew there would be a forgiveness of $3,000. Some entrepreneur would come in and give an estimate.

Mr. KLEPPE. We had that in California. When you say that is the reason it was passed, maybe you are right. I wouldn't try to prejudge what your opinion is.

Senator PASTORE. What our opinion was? What our action was. The Congress did that.

Mr. KLEPPE. In any event, I recite this because this is a major way from our regular SBA activity.

Senator PASTORE. You say there is a decrease of $260,000 on salaries and expenses. Then you are asking for a transfer of $69,700,000.

Mr. KLEPPE. Yes, from three revolving funds.

Senator PASTORE. Why are you taking it out of the revolving fund? Why don't you need this money in the revolving fund?

Mr. MILLS. The revolving funds will pay their share of the cost. That is the way the law reads.

Senator PASTORE. This is not an increase over last year?

Mr. MILLS. It isn't.

Senator PASTORE. In other words, if I take the $260,000 out of the $69,700,000, is that the increase?

Mr. MILLS. No, sir. The $260,000 decrease is actually—we have what they call a direct appropriation.

Senator PASTORE. Yes. I know that.

Mr. MILLS. If you were to remove out the loan program where we get the contingency and supplementals and so forth out of the total available, and compare that with last year, there is an increase in our budget as the statement reads of $5,491,000 for the salaries and expenses over the same comparable funding of last year.

Senator PASTORE. How do you justify that?

Mr. KLEPPE. There is one paragraph here that describes it. There is a decrease of 146 in our filled permanent positions authorized at June 30, 1973, from 4,200 to 4,054 to be filled at June 30, 1974.

Notwithstanding this decrease in year-end permanent positions, there is an increase in man-years in 1974 over 1973. This comes about because of the payment out of these funds of permanent employees who were detailed to disaster duty in 1973, and from the phasing down of employment during 1974, rather than a reduction at the beginning of the year.

Senator PASTORE. For instance, are you adding the number of employees in 1974 budget as against 1973?

Mr. MILLS. Yes, sir, man-years. Not positions, man-years. Some of these people were paid last year out of the disaster loan, the contingency item you have of 10 per cent.

This year it will be paid out of another appropriation, transfer of funds. It amounts to $2.8 million just for that alone.

Senator PASTORE. How many vacancies do you have now?

Mr. KLEPPE. 4,061—139 as of this point in time.

Senator PASTORE. Is that about the average?

Mr. KLEPPE. It probably wouldn't be the average, Mr. Chairman, if we weren't looking at a reduced personnel figure for fiscal year 1974. We have got 4200 authorized ceiling now. We have got an authorized ceiling of June 30, 1974 of 4,054, 146 less.

I don't like the idea of just jumping right up to the 4200 knowing full well we have to come back down again. Somebody might get hurt.

Senator PASTORE. But are you asking for the money to pay for the maximum personnel?

Mr. KLEPPE. Yes.

Senator PASTORE. Why, if you are not going to fill them?

Mr. KLEPPE. We are going to have them filled from the standpoint of the 4054. That is what this budget deals with.

Senator PASTORE. But is this budget confined to the man-hours you are talking about?

Mr. KLEPPE. Yes.

Senator PASTORE. It deals with full employment?

Mr. KLEPPE. Yes.

Senator PASTORE. Yet, you have got how many did you say vacancies?

Mr. KLEPPE. We have got 139 over our June 30, 1973 level, but we are over our June 30, 1974 level. We have no vacancies from that position. We are over. This budget deals with the dollars needed for 4,054 people. We are already over there.

Mr. Chairman, we can't afford to be down from where we are at. We don't have any fat in personnel.

Now, Mr. Chairman, let me discuss the specific appropriation items.

As to salaries and expenses, the request of $92 million for salaries and expenses consists of a direct appropriation of $22.3 million and authority to transfer $69.7 million from the three revolving funds. This transfer authority includes the usual contingency language providing that 10 per cent of the transfer amount of $6.970 million be apportioned for use only at such times and in such amounts that may be necessary to carry out the activities of the funds.

These are the funds which we finance salaries and expenses associated with disaster loan-making.

The comparable amount available in fiscal year 1973 was $110 million. However, excluding this contingency item from our overall request for salaries and expenses of $92 million, our total request for fiscal year 1974 is $85.030 million.

If we exclude the cost of disaster loan-making from our fiscal year 1973 program, along with the funds that were held in reserve by OMB, our comparable program for 1973 was $79,539 million. Therefore on a comparable basis, our request for 1974 is $5,491,000 higher than our 1973 program.

There is a decrease of 146 in our filled permanent positions authorized at June 30, 1973, from 4,200 to 4,054 to be filled at June 30, 1974. Notwithstanding this decrease in year-end permanent positions, there is an increase in man-years in 1974 over 1973.

This comes about because of the payment out of these funds of permanent employees who were detailed to disaster duty in 1973, and from the phasing down of employment during 1974, rather than a reduction at the beginning of the year.

Business Loan and Investment Fund. We are requesting an appropriation of $225 million for additional capital for the Business Loan and Investment Fund. This amount is required to provide the projected loan programs for 1974.

Simply stated, our obligations for loan approvals, interest, and administrative expenses will exceed our repayments and other revenue including carry-over balances from 1973 by $225 million. The request of $225 million compares to $395 million appropriated in 1973.

Disaster Loan Fund. Mr. Chairman, the estimate before you does not contain a request for a capital appropriation for the Disaster Loan Program for 1974. At the time this budget was developed, we anticipated sufficient carry-over at the end of 1973 which with the availability of repayments, would provide a $100 million program for 1974.

As I explained to you at our recent hearings on the disaster supplemental for 1973, this situation has now changed due to the recent flooding and tornadoes, and other unplanned increases in the disaster loan program.

In all probability, we will be requesting at a later date more funds for the disaster loan program. It is just impossible at this time to tell what this may amount to.

Gentlemen, this completes my brief review of SBA's budget request for fiscal year 1974. We will be pleased to answer any questions the committee may have.

Senator PASTORE. How much did you ask OMB for 1974?

Mr. KLEPPE. In appropriations or people?

Senator PASTORE. Did they grant you everything you asked for?

Mr. KLEPPE. No.

Senator PASTORE. How much do you request?

Mr. KLEPPE. We requested additional funds for direct loans in 7(a) that we didn't get. We got a total of 225 for the business loan and investment fund.

It seems to me we asked for about 300-and-some.

Senator PASTORE. What did they give you?

Mr. KLEPPE. Two hundred twenty-five. This is our business loan investment.

Senator PASTORE. Do you expect to be coming back on a supplemental?

Mr. KLEPPE. For that purpose? Probably not, Mr. Chairman.

Senator PASTORE. How about this disaster in the Mississippi valley?

Mr. KLEPPE. Yes.

Senator PASTORE. Do you have enough money for that?

Mr. KLEPPE. No. There is a $150 million supplemental that is before you. Mr. Chairman, we have asked OMB for an additional $350 million.

Senator PASTORE. They have not decided that yet?

Mr. KLEPPE. You have not received that yet, no. We know that we are out of money at the end of this week, if we get this $150 million supplemental, it will probably last us to the end of the fiscal year. We have great additional exposure that has happened since I was up to testify before you and, hence, our request to OMB.

I suspect we will have to handle that on a supplemental basis, Mr. Chairman, when it happens.

Senator PASTORE. How many cases have you presented to the United States Attorney's Office for consideration?

Mr. KLEPPE. The last time I was up here I left that with you and I didn't bring the detail up here.

Senator PASTORE. Will you put it in the record?

Mr. KLEPPE. Yes. I would be very glad to.

Mr. TOWER. Mr. President, I yield 1 minute to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, with no time allotted to their side, I wish to announce that the next vote will occur shortly and will take 15 minutes. It is my understanding that shortly after that we will vote on final passage. I ask unanimous consent that the time allotted on the vote on final passage be 10 minutes.

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

Mr. TOWER. Mr. President. I have some firsthand knowledge of what the distinguished Senators from Rhode Island have been talking about. I face base closures in my State. And I face the imminent closure of two more bases.

I think, based upon the Mansfield amendment of sometime ago, that this is an acceptable amendment. I am prepared to accept it myself on behalf of the minority.

Mr. KENNEDY. Mr. President, I wholeheartedly support the amendment for the reasons advanced by the Senators from Rhode Island. Those reasons are equally applicable to Massachusetts. The amendment offered by the Senator is a significant step toward relieving the economic impact on small business firms caused by the Defense Department's decision to close or consolidate activities at some 274 bases in 32 States.

We know from past experience that, apart from the actual loss of civilian defense jobs or military jobs in a community, there are also serious multiplier effects as well. The Department of Defense estimates that for every 100 civilian defense jobs lost in a community, there are an additional 153 other service jobs lost as well—men and women who were grocers, plumbers, bus drivers, and other providers of services for those civilian workers. For every 100 military jobs lost, they estimate there are another 66 jobs lost in the community. So we are talking about a total impact that can create economic chaos in a community, especially among small businesses.

This amendment will provide immediate help to those firms which suffer sudden increases in unemployment or other economic burdens as a result of the loss of defense facilities in their areas. Clearly, when national decisions such as the base closing decision are made, individual businesses and workers should not be forced to suffer the full burden of those decisions. They deserve Federal assistance in adjusting to an economic calamity that is no fault of their own.

Recently, for these same reasons, I introduced S. 1695, the Emergency Manpower and Defense Works Assistance Act which seeks to provide short-term assistance to workers. It authorizes public service employment, health benefits, early retirement, moving expenses, and extended severance benefits to workers who lose their jobs as a result of the base closing decision.

I am pleased that Congress is moving forward on many fronts to deal with the devastating impact of the military base cutbacks. I commend the Senator from Rhode Island for his initiative on the pending small buisness legislation, and I urge the Senate to approve it.

Mr. CRANSTON. Mr. President, on May 3, my colleague from California (Mr. TUNNEY) and I introduced a bill, S. 1709, which would effectively prohibit the per-

manent reduction in force of civilian employees at U.S. bases until there is a comparable reduction-in-force affecting foreign nationals employed by the United States overseas. In addition, I have cosponsored a bill introduced by the Senator from Massachusetts (Mr. KENNEDY) which is designed to provide specific benefits to the victims of this latest round of closings. I have also cosponsored a bill introduced by the Senator from Rhode Island (Mr. PELL) to establish a "Military Installation Closing Commission." This commission would review and evaluate all Department of Defense proposals to close military installations in the United States.

The Pentagon has announced plans to close 274 military installations nationwide by June 1974, in order to accomplish a $1 billion savings in operational expenses. In California, a total of 11 installations are affected by this order.

I have been and am now still opposed to the closing of military installations "until the administration develops a program for providing jobs for civilian workers threatened by layoffs and loan assistance for those individuals dependent on these bases for their business existence."

It is significant, that the administration is not cutting back our military bases or installations overseas. The United States is maintaining many hundreds of bases and installations overseas in 30 foreign countries at a cost of some $30 billion a year.

We are sacrificing jobs and businesses here at home so that the President can keep his bases overseas. We should be putting that money to work here at home in areas that create jobs for Americans rather than jobs for Icelanders, Germans, Spaniards, and countless other foreigners.

In addition to the thousands of civilian employees being put out of work, thousands of small businesses in and around the closing bases will go out of business.

I support and cosponsor Senator PELL's fine amendment to assist these small businessmen in the economic adjustment they will have to make upon such short notice from the military of termination of business activity. This kind of action by the administration has left many individuals and small businesses unable to plan a responsible transition. Congressional action is needed to address this problem.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from Rhode Island. 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 Indiana (Mr. HARTKE), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Minnesota (Mr. MONDALE) are necessarily absent.

I further announce that the Senator from Texas (Mr. BENTSEN) is absent on official business.

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

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Illinois (Mr. PERCY) is absent by leave of the Senate on official business.

The Senator from Colorado (Mr. DOMINICK), the Senator from North Carolina (Mr. HELMS), and the Senator from Virginia (Mr. SCOTT) are absent on official business.

The Senator from Kansas (Mr. DOLE), the Senator from Hawaii (Mr. FONG), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

Also, the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The Senator from Nebraska (Mr. CURTIS) is detained on official business.

On this vote, the Senator from Nebraska (Mr. CURTIS) is paired with the Senator from North Carolina (Mr. HELMS). If present and voting, the Senator from Nebraska would vote "yea" and the Sentor from North Carolina would vote "nay."

The result was announced—yeas 69, nays 11, as follows:

[No. 146 Leg.]

YEAS—69

Abourezk	Ervin	Moss
Aiken	Fulbright	Muskie
Allen	Gravel	Nelson
Baker	Gurney	Nunn
Bartlett	Hart	Pastore
Bayh	Haskell	Pearson
Beall	Hatfield	Pell
Bellmon	Hathaway	Randolph
Bennett	Hollings	Ribicoff
Bible	Hruska	Roth
Biden	Inouye	Schweiker
Brooke	Jackson	Scott, Pa.
Burdick	Javits	Sparkman
Byrd, Robert C.	Johnston	Stafford
Cannon	Kennedy	Stevens
Case	Long	Stevenson
Chiles	Magnuson	Symington
Church	Mansfield	Taft
Clark	McClellan	Tower
Cranston	McClure	Tunney
Domenici	McGovern	Weicker
Eagleton	Metcalf	Williams
Eastland	Montoya	Young

NAYS—11

Brock	Fannin	Packwood
Buckley	Goldwater	Proxmire
Byrd, Harry F., Jr.	Griffin	Talmadge
	Hansen	Thurmond

NOT VOTING—20

Bentsen	Hartke	McIntyre
Cook	Helms	Mondale
Cotton	Huddleston	Percy
Curtis	Hughes	Saxbe
Dole	Humphrey	Scott, Va.
Dominick	Mathias	Stennis
Fong	McGee	

So Mr. PELL's amendment was agreed to.

Mr. PELL. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I yield myself such time on the bill as may be required, to yield to the distinguished Senator from Pennsylvania (Mr. SCOTT).

LEGISLATIVE PROGRAM

Mr. SCOTT of Pennsylvania. Mr. President, I rise to ask the distinguished majority leader what the program is for the remainder of the day.

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished Republican leader, it is my understanding that we will have one more vote, to take no more than 10 minutes, and that will complete our business for today except to finish the Executive Calendar.

It is my understanding that on tomorrow or thereafter, the State Department authorization bill, the USIA bill, the Peace Corps bill and the Foreign Service Buildings Act will be reported. It is hoped that we will be able to get an agreement on the Peace Corps and the Buildings Act bills for Monday. The others will have to wait until Monday to be considered.

ORDER FOR ADJOURNMENT TO 12 O'CLOCK NOON ON MONDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon on Monday next.

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

PROGRAM

Mr. SCOTT of Pennsylvania. Mr. President, I rise again at this point to indicate that on two of the bills we are disposed to waive the usual 3-day notice in order to expedite our business; namely, the Peace Corps and the Foreign Service buildings bills. We are not waiving the others at this point.

Mr. MANSFIELD. Mr. President, for the information of the Senate, after discussing it with the distinguished Republican leader, it is the intention of the joint leadership to lay down the urgent supplemental appropriation bill before we go out next week and have it made the pending business upon our return.

Mr. BROOKE. Mr. President, will the distinguished majority leader yield for a question?

Mr. MANSFIELD. I yield.

Mr. BROOKE. Mr. President, I have a resolution on the calendar dealing with the appointment of a special prosecutor, for approval by the Senate. I have held up discussion and debate on this matter, because the Judiciary Committee has been conducting confirmation hearings on the Attorney General.

The issue raised so far is as to the independence of the special prosecutor. I think that this is a decision which the Senate should be making rather than the Attorney General-designate. I hope that the leadership will allot time so that this

issue may be discussed on the floor, to pass the resolution to create a special prosecutor with the approval of the Senate, or as some Senators feel, we should have a statutory independent prosecutor, because we seem to be deadlocked insofar as the Judiciary Committee is concerned at the present time.

But, at any rate, not speaking for the Judiciary Committee, as I am not a member of it, I do feel, now that the actual hearings have been concluded, that we should have discussion and debate on the resolution itself.

Mr. MANSFIELD. Mr. President, the hearings have not yet been concluded, but the joint leadership will be glad to discuss the matter with the distinguished Senator from Massachusetts.

Mr. BROOKE. Are we going over until Monday next?

Mr. MANSFIELD. We are.

Mr. BROOKE. My point, Mr. President, is that this should be a decision made by the Senate prior to the long recess to be taken over Memorial Day.

Mr. MANSFIELD. Well, we are going over until Monday next, but we will be in session until Thursday next, so there will be plenty of time to discuss it with the distingiushed Senator from Massachusetts, with his approval.

Mr. BROOKE. I appreciate that and thank the distinguished majority leader very much.

Mr. McCLELLAN. Mr. President, will the distinguished majority leader yield for a question?

Mr. MANSFIELD. I yield.

Mr. McCLELLAN. I believe the distinguished majority leader just made a reference to laying down the supplemental appropriation bill. Is that going to be laid down today and made the pending business for Monday?

Mr. MANSFIELD. No. That bill will be laid down on the day we go out for the Memorial Day recess so that it will be made the pending business when we return.

Mr. McCLELLAN. Oh, after the recess?

Mr. MANSFIELD. Yes. We have no other choice.

Mr. McCLELLAN. I thank the distinguished majority leader.

AMENDMENT OF SMALL BUSINESS ACT

The Senate continued with the consideration of the bill (S. 1672) to amend the Small Business Act.

The PRESIDING OFFICER. Who yields time?

MANY SENATORS. Vote! Vote! Vote!

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD.

The text of the amendment is as follows:

At the end of the bill add the following new section:

"SEC. —. The first sentence of subsection (a) of Section 10 of the Small Business Act and the first word of the second sentence of such subsection are amended to read as follows:

The Administration shall, as soon as practicable each calendar year, make a comprehensive annual report to the President, the President of the Senate, and the Speaker of the House of Representatives. Such report shall include a description of the state of small business in the nation and the several States, and a description of the operations of the Administration under this chapter, including, but not limited to, the general lending, disaster relief, government regulation relief, procurement and property disposal, research and development, technical assistance, dissemination of data and information, small business advocacy, and other functions under the jurisdiction of the Administration during the previous calendar year. Such report shall contain recommendations for strengthening or improving such programs, or, when necessary or desirable to implement more effectively Congressional policies and proposals, for establishing new or alternative programs. In addition, such

Mr. KENNEDY. Mr. President, the amendment recognizes the growing importance of reports to Congress by Federal agencies, so that we may receive the latest and most up-to-date information available on areas within the jurisdiction of such agencies.

I give my strong support to the pending legislation, which will offer substantial and urgently needed new assistance to small businesses throughout the country. At the same time, however, I believe that, in light of the plight of small business in the country, it is appropriate for Congress at this time to require the Small Business Administration to submit more comprehensive annual reports to the Congress on the state of small business in the Nation.

Although the SBA currently submits an annual report, the statutory mandate for the report is far from comprehensive. As a result the annual SBA reports fall short of the goal of seriously addressing the important issues confronting small business in the modern American economy. In fact, the most recent SBA annual report, the report for the calendar year 1971, is a thin 32-page brochure, most of which is pictures—an attractive public relations promotion, perhaps, but hardly the serious analysis of American small business that Congress and the country ought to have.

In recent years, Congress has enacted effective legislation in other areas, requiring newly established agencies to provide detailed information and recommendations with respect to functions within their jurisdictions. The same should be required of the SBA.

To this end, the amendment I am proposing to S. 1672 would require the Small Business Administration to submit a "State of Small Business" report to the President and Congress each year. This report will include a description of the state of small business in the Nation and the several States, and a description of the operations of the administration during the year. The report will contain detailed summaries of the principal missions of the agency, including its following functions: general lending, disaster relief, Government regulation relief, procurement and property disposal, research and development, technical assistance, dissemination of data and information, the small business advocacy role of the agency, and its other functions. My intention is that the report will deal with every aspect of small business in the Nation's economic life, including, for example, the impact of the tax laws on small business. In addition, the report will include recommendations for strengthening and improving SBA programs, in order to implement congressional policies more effectively.

In this way, both Congress and the small business community in every State will have the information needed to preserve one of the country's greatest strengths, the role of small business in our national economic life.

It is especially appropriate that the Senate is considering this legislation now, for this week also marks the occasion of the annual Washington presentation of SBANE, the Smaller Business Association of New England. SBANE is widely regarded as one of the most effective small business associations in the country, as its annual Washington presentations each spring are one of the highlights of the congressional year.

In addition, for the first time this year, SBANE has expanded its Washington presentation to include two other small business organizations—the Independent Business Association of Wisconsin, and the Smaller Manufacturers Council of Pittsburgh. The mutual cooperation of these three organizations is an excellent indication of the growing effectiveness of small business organizations across the country and their ability to make their voices heard in Congress.

Mr. President, this year's Washington presentation by SBANE deals with four major areas involving some of the most basic needs of small business—taxation, the growing paperwork burden imposed by Federal regulations, Federal Government procurement procedures, and the need for greater representation of small business in Goverment decisionmaking. SBANE has prepared a concise summary of its program, and I ask unanimous consent that the program may be printed in the RECORD.

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

SMALL BUSINESS WASHINGTON PRESENTATION, MAY 16, 1973

BACKGROUND

The Small Business Washington Presentation was originated by the Smaller Business Association of New England, Inc. (SBANE) Waltham, Mass., nearly three decades ago to present specific proposals to enhance the economic posture of small business and encourage the development and growth of American free enterprise.

This year SBANE has been joined as equal partners in the Presentation by the Independent Business Association of Wisconsin (IBA–W) Milwaukee, Wis., and the Smaller Manufacturers Council (SMC) Pittsburgh, Pa.

It is hoped that this will be the beginning of a national grassroots movement of small business organizations joining together to

press for the needs of the small business community that can be met by national legislation.

Small business has always received a warm welcome on Capitol Hill. The Presentation's purpose is to translate this cordial reception to meaningful action by articulating the concerns and problems of small business to our national lawmakers.

We thank the Senate and House Small Business Committees and staffs for making it possible for the three organizations to give this Presentation.

INTRODUCTION

Small business an American cornerstone: Small business is a quality-of-life issue.

Indeed, the survival and the strengthening of America's small business community is not primarily for the benefit of the small entrepreneur, although he will be one of the beneficiaries. The larger group of beneficiaries will be the American public which, because the small business has always been one of the cornerstones of the American economy, has tended to forget that the existence of a large, thriving small business community is one of the elements that adds great strength to the warp of the American social fabric.

Public opinion about business at low ebb: Much of the present state of public opinion about American business is due to the emphasis on the large corporation. There is no way to avoid this emphasis. The most important labor union contracts are with major corporations, Government activities directed toward business usually play up the big names, as in Justice Department antitrust suits against large corporations or in actions of the Securities & Exchange Commission. In the entertainment media, the executive suite of the large corporation is more often the setting than the front-office of a machine shop employing 50 workers.

Opinion Research study. At the time of the February, 1972 White House Conference on the Industrial World Ahead, Thomas W. Benham, president of Opinion Research Corporation, presented the results of a study his firm had done for the conference. It found a sharp decline in the public's approval of business from 1965 to 1971. In 1965 some 47% of the public had expressed disapproval of business; in 1971, the figure had risen to 60%. In the same period of time, those who expressed "high approval" of business declined from 20% to only 11%. Further more, only 27% thought that competition serves to keep prices fair, and 62% were in favor of government controls to assure equity for the consumer.

The large get larger: Certainly a large part of the public's impression of business is gained by the emphasis on the large firm. A recent Federal Trade Commission survey showed that in 1968 the 100 largest manufacturing organizations in the United States held a larger share of manufacturing assets than had the 200 largest only 18 years earlier. Yet, 95% of all the business units in the United States are still small businesses. They produce between 35 and 40% of the gross national product, and employ 44% of the work-force. There is actually no commonly accepted statistic on the number of small businesses. There are some 5¼ million full-time commercial small businesses in the country. But if the number of farms, professional businesses (such as doctors and lawyers) and part-time businesses are included, the number is about doubled. Small business performs many functions:

Functions of small business

Civic contribution: 1. The small, independently-owned business forms the backbone of many American towns and small cities. The civic contribution of a local businessman, rooted to his community, with no intention and often no possibility of moving elsewhere, is incalculable. It is the businessman who knows he is staying who contributes the most to the social welfare of his town, in contrast to the corporation executive who moves in and out of ten different towns in maybe 15 years and has little time to plant roots in a single one of them.

Without the social stability fostered by the smaller business firm, the United States would be socially even more at loose ends than it is today.

Inventiveness: 2. The small business is still the place where inventiveness flourishes. According to one count, half of some 61 major inventions in this century have been the work of either a single individual or have come out of a small business. These include air conditioning, automatic transmission, ballpoint pens, cellophane, Cinerama, the helicopter, insulin, the jet engine, power steering, and zip fasteners. They include names like Lee DeForest, who invented the vacuum tube; Robert Goddard and the rocket; Ernest O. Lawrence and the cyclotron; Selman Waksman and Streptomycin; Alexander Fleming and penicillin; Edwin Armstrong and the FM radio; Edwin Land and the Polaroid camera.

Several recent studies have shown a relationship between the U.S. foreign trade balance and the introduction of new products in the United States. One in particular, done for the Commerce Department by Professor Robert Stobaugh and a group of colleagues at the Harvard Business School, demonstrated that the U.S. has traditionally been able to maintain a positive trade balance because this was the country in which most new inventions first came to market. Once any invention or new process is known, the U.S. tends to lose its at first monopolistic position in the field and then even its predominant lead. This process of the transfer of technology overseas cannot be reversed or stopped, the Commerce Department study concluded. The only thing that can assure a better U.S. trade picture is the continued introduction of new products in this country, ahead of their appearance elsewhere in the world. Since so many new products have been the work of the small or fledgling business firm, it is clearly in the overall national interest to defend and even foster the viability of such firms.

Supplier to big firms: 3. The small business, while often an end seller of its own products or services, is also an important adjunct to the large corporation. Without the availability and flexibility of small business firms, the big would be even bigger and perhaps less efficient. As a single example, General Motors Corporation has 26,000 suppliers. Almost half of every GM sales dollar goes to these suppliers. Over 64% of those suppliers employ less than 100 people, and 89% employ less than 500.

Good fit for special kinds of production: 4. The small business is ideally suited for certain kinds of products and services: manufacturing of products with limited market volume; products having a short production cycle (because of change in seasons or styling) and also low capital requirements. Here are included many items of clothing, jewelry, and shoes; products requiring very fast service, such as legal printing, photo engraving, or some specialty chemical firms that serve as converters of chemicals turned out by the large chemical manufacturers.

Cleanup time

Small business needs breathing room too: This is a decade in which America is dedicated to cleaning up its air and purifying its streams, to generally improving the quality of its life, which is already close to the top in terms of actual physical goods produced and distributed per capita. There is no more appropriate time in which to consider whether America's small businesses are also being given their breathing room in this hopefully better environment that is emerging. Because America's small businesses have diverse interests, limited funds with which to make themselves heard as a lobby, and usually no spare executive talent to do anything other than try to run the business, their position as a unique and major institution (when they are all taken together) is in danger of being overlooked.

5 million small businesses comprise major institution: It is our position that the viability and prosperity of the over 5 million small businesses in the country depends in part on awakening the federal government to the fact that here is an institution which deserves some special attention at this moment in the country's history. This is not to request that the inherently inefficient be kept alive in resuscitators or by artificial injections. It is not to prevent the orderly evolution of the business system, which is always undergoing some change—it is not to repeat some of the mistakes of the Agriculture Department of a generation ago, in trying to keep alive a kind of farming that was destined to change with the times anyhow. What it does mean is that the particular problems of small business is a society dominated by macro-institutions need to be appreciated and enough attention paid to them to restore the situation to the status quo ante. Specifically, as the following four sections will detail:

Taxation

We do not request a special system of taxation that would benefit small business but be unfair to others. We do ask that the tax treatment of small business take into account the particular problems of small business in accumulating capital, when the normal avenues of access to capital or credit that are available to large business are partially restricted or even closed to small business.

Paperwork

We want recognition of the fact that many small businesses do not have the staff or the sophistication to handle the increasing volume of paperwork demanded of them by the federal government. We ask the government to set up machinery which will monitor the creation of new reporting requirements by business.

Procurement

We fear that small business will see its relative position further eroded if there are not adequate measures to apportion to its share of the $55 billion annual federal government procurement budget. We suggest specific steps which would increase the ability of small business to get its share of federal procurement.

Representation

In many units, departments, and agencies of government, small business needs a special representative. When decisions are being made that affect the business-government relationship, someone needs to represent the special problem of small business. Up to now, the advocacy role that was to be played by the Small Business Administration has not been effective enough. In addition to this kind of specific representation, small business also needs help from government in charting its course as a viable and growing institution in the American economy for the rest of this century.

Small business does not need to ask for artificial protection. It does need a kind of special concern lest its special problems go unrecognized in a society in which the giant institutions dominate the news and the decision-making process.

It is the small businessman more than the corporate vice president who is more often the risk-taker in our society today, who lays his personal capital on the line, who is the initiator, the innovator. It is the small busi-

nessman who typifies some of the best of the traditionally American qualities—the work ethic, personal sacrifice, the willingness to take risks on one's own. If the small business story were better known, and if the small business sector were enjoying a healthier growth, it is our strong feeling that much of the present negative attitude toward the free enterprise system in America would be dissipated.

Thus, we find strong reasons for the federal government's insuring that the small business community has a chance to thrive on its own. At the very least, no actions of the federal government, as will be detailed in the following sections, should be such as to make the economic situation of the small business any more precarious than it is.

We strongly advocate the adoption of Senator John Tower's bill which would increase the present surtax exemption for corporations from $25,000 to $100,000. His bill would retain the present 22% normal rate on pretax income up to $100,000, thus helping solve the internal financing needs of many small businesses. We are strongly opposed to any change in estate taxation which would result in the taxation of capital gains at death, in addition to taxation of the decedent's estate. Such a proposal, while having some basis on equity on its face, would strike in inequitable fashion at the small businessman, most of whose net worth is usually represented by a business built up over a lifetime. This would decrease incentives to build such a business, as well as make the continuance of the business after the owner's death more questionable.

Higher surtax exemption: The law which exempts corporations from the 26% surtax, in addition to the 22% normal profits tax which all corporations must pay, dates back to 1938. It was established at that time partly in recognition of the special difficulties small business faces in building up its capital. If the situation were to be restored only to its 1938 equivalent, the loss in purchasing power of the dollar in the intervening 35 years would require raising the exemption limit to $75,000.

Internal funds vital: But it is not solely a question of returning to some prior year as a base for all time. The continuance of small business depends in large part on the maintenance not only of incentives to the individual entrepreneur, who takes genuine risks every business day. It is also a matter of providing the funds for the individual enterpreneur to stay in business and the capital requirements to start or stay in business are usually the most serious problem today. The capital markets are efficient for large users of credit. They become less efficent and less accessible the smaller the size of a company. For example, the costs of a small underwriting may be prohibitive to a small firm. Or, bank term loans may be unavailable to small business if it does not own readily marketable fixed assets that can be pledged as collateral. Thus, to a greater extent than with other forms of enterprises, the small businessman is forced to rely on his profits to generate new capital. Or, he is forced to reinvest part of his own after-tax drawings from the business, or to look to limited private placements.

A high income tax depletes the internal funds for additional investment on which the small business must mainly rely. Measures that permit increased retention of earnings on the other hand, help to finance growth, ease the climate of borrowing, and foster the establishment and healthy expansion of small concerns.

If a hypothetical small business earned exactly $100,000, its present taxes would amount to $41,500. If the surtax exemption were to be raised to $100,000 that same business would then pay income taxes of only $22,000, giving it a 33.5% increase in after-tax income.

In both 1970 and 1971 there were over 10,000 business failures. Some of these represented new and perhaps poorly managed business firms which did not deserve to survive, at least not through special favor. Nor were all of them small businesses; the Penn Central collapse occured in June, 1970. But many of these failures were directly attributable to the difficulties small businesses have in accumulating sufficient capital to be economically viable units. And, besides the firms that actually failed, many were led to seek a merger or to sell out for similar reasons.

Phase-out of multiple surtax exemption: This is an opportune moment to examine the surtax exemption, because in one more year, the former tax benefit of multiple surtax exemptions will have been phased out. Until 1969, large companies could take advantage of the multiple surtax exemption through the use of multiple corporations. They were slightly penalized in doing so by the imposition of a 6% extra tax on the first $25,000 of taxable income. This reduced the actual tax saving on the first $25,000 of income in each tax-paying unit from $6,500 to $5,000. The 1969 Tax Reform Act phased out the multiple surtax exemption over a five-year period which ends December 31, 1974. After that time, a controlled group of corporations will be limited to a single $25,000 surtax exemption.

The purpose in phasing out the multiple surtax exemption was to end what many in Congress felt was an abuse of that part of the tax law. The phase-out was estimated to bring in an additional $235 million a year in taxes, when fully in effect. While we would not criticize the end of the multiple surtax exemption in cases where it did encourage an abuse of the system, it has also increased the taxes of businesses which for very good reasons may have been run as more than a single corporate entity. Thus, we see this as an ideal time to consider raising the single surtax exemption from $25,000 to $100,000. It will not only make it somewhat easier for small business to accumulate capital, but will redress any inequity caused by ending the multiple surtax exemption.

Capital gains tax at death: With more tax reform in the offing either in 1973 or 1974, we find it necessary to take a strong stand against any proposal to tax capital gains at death. Although the proponents for this change in the tax laws have some debating points on their side, a change in this direction would have a disastrous effect on small business.

At present, incremental changes in the value of capital assets are taxed only at the time of a sale or exchange. At time of death, since there is no sale or exchange of property, but only its transfer to the beneficiaries of an estate, the change in capital values is not taxed. (However, since the estate tax is steeply progressive, assets that have appreciated in value are in effect taxed more than those that have not, although the computation of the estate tax does not actually make any separation of the assets in this regard.)

Unique problems of estate of small businessman: The value of the gross estate of many small businessmen is represented chiefly by the stock in their business. Where the business has prospered, and especially where it has been ongoing for a long period, the basis of the stock in it is quite low compared to present value. Already, the federal estate tax on an estate which consists largely of a family-owned business is a primary factor in forcing the sale of many such businesses. Especially when the business is not currently making a large return for its owner, at least on the basis of the increased value of his investment, the estate is sometimes forced to sell the business in order to pay the estate taxes. This situation would be multiplied many times if an estate were to have to pay both the present estate tax and also a capital gains tax based on the increased value of the stock in the family business.

The estate of a small business executive faces a different problem from that of a person whose estate is composed largely of marketable securities. The paper appreciation of a business stock is normally locked into assets used in the business; it is illiquid. Furthermore, the stock of many small businesses is completely unmarketable, i.e., if there is not enough cash available to pay estate taxes, the entire business must be sold. There is no possibility of selling just some of its shares to the general public without going through the expensive process of an SEC registration, and this avenue is not even open to a business unless it is of some size. None of these considerations apply to the estate of a person who dies owning largely marketable shares of many companies; yet both would be affected by a decision to tax capital gains at death.

Finally, a capital gains tax at death would fall unevenly on two estates, as shown in the table below. Since a capital gains tax would be a debt payable by the estate, it would reduce the estate tax burden of the particular estate. Taking two estates, composed (for simplicity's sake) entirely of stock in close corporations, with one estate worth five times the other, the table shows the two estate taxes under present law. Assuming a capital gains tax at a 35% rate before the imposition of estate taxes at the same rates as they currently are, the increase in tax for the smaller estate would be 75%, against an increase of 38% for the larger estate. This is because the larger estate, after paying the capital gains tax, would escape a good portion of the higher brackets of the estate tax that it was already paying under current law. Such new inequities as would be introduced, if capital gains taxes at death were to be introduced, argue further for maintaining this portion of the tax system as it now exists.

SCHEDULE OF TAX CONSEQUENCE OF PROPOSED TAX ON CAPITAL GAINS AT DEATH

	Estate 1	Estate 2
Value of stock	$500,000	$2,500,000
Basis of stock	100,000	500,000
Gain	400,000	2,000,000
Present law:		
Gross estate	500,000	2,500,000
Exemption	60,000	60,000
Taxable estate	440,000	2,440,000
Estate tax	126,500	968,800
Capital gains tax	0	0
Total tax	126,500	968,800
Proposed law: Capital gains tax (35 percent)	140,000	700,000
Estate tax:		
Gross estate	500,000	2,500,000
Tax liability	140,000	700,000
Subtotal	360,000	1,800,000
Exemption	60,000	60,000
Taxable estate	300,000	1,740,000
Estate tax	81,700	636,200
Capital gains	140,000	700,000
Total	221,700	1,336,200
Percentage of increase	75.26	37.92

PAPERWORK

We ask for recognition of the fact that the paperwork requirement thrown on small business by the federal government is in some cases the extra margin that threatens to drive a small business under, if the requirements are faithfully met. We support measures to reduce the number of reports required to be filed by small businesses. Specifically, we urge the passage of S. 200, introduced on January 4, 1973, by Senator Thomas J. McIntyre.

Paperwork burden: The Congress and the Administration have been aware of the need to curtail the paperwork burden at three levels—government itself, business and the public at large. With this in mind, in 1942 it enacted a Federal Reports Act, which was amended in 1950. But the results, at least in terms of their effects on the operation of small business, have been disheartening. During 1972, Senator McIntyre's Subcommittee on Government Regulation of the Senate Select Committee on Small Business held hearings on the impact of the Federal paperwork burden on small business. Witnesses before the Subcommittee referred to the paperwork-redtape burden, "as the single most important element in the success or failure rate of a small business," according to Senator McIntyre. One expert witness from the Office of Management and Budget was not able himself to compile a "typical set of forms to be completed by a dress shop in one year's operation."

Present monitoring ineffective: Moreover, the Internal Revenue Service is exempt from the OMB forms monitoring and paper reduction effort. But some 35% of all federal forms are generated by the IRS. The Social Security Administration, also a major paperwork producer, seemed to show too little concern at the effects of paperwork on the small businessman.

So we conclude that the present efforts of OMB are not significant enough, or there are too many agencies outside its purview, to stem the tide of paperwork. To make an analogy with the ecology movement, there is better understanding today of the interrelatedness of all parts of a system. What seems to a small businessman like an unending stream of government paperwork flowing through his front door is disruptive to the ecology of his entire business—to the time he needs to spend on production or marketing or handling his finances. The average small businessman spends some 200 hours a year completing forms, calculating and paying his taxes, and responding to various government questionnaires. Assuming he worked only a 40-hour week, this "compliance activity" would amount to 10% of his working time: Compounding this imposition, many small businesses do not have the personnel who are skilled in undertaking the requirements of new form. [It is for these reasons that we strongly support S. 200.]

Senate Bill 200: Therefore, we strongly support S. 200, which requires that new forms and reports, and revisions of existing forms that would result from new legislation be contained in reports of committees reporting that legislation to the floor. Senator McIntyre has noted that when Congress passes a new law, in order to guarantee compliance, it attaches a reporting requirement. "We do not consider as to whether or not this reporting requirement can be satisfied in another less complex manner than additional direct reporting by business." S. 200 would require a legislative report on any new bill to contain a statement "setting forth whether the proposed legislation will require additional mandatory reporting from the private sector."

Senate Bill 201: We also support S. 201, introduced by Senate Robert Taft, Jr., which would change the Internal Revenue Code so as to "relieve employers of 50 or less employees from the requirement of paying or depositing certain employment taxes more often than once each quarter." Whether this (number of employees) is the cut-off point or some other criterion is used, we feel that some such categorization of businesses is necessary to exempt the smallest from a load they cannot afford to carry. Another approach would be for Congress to recognize the three tiers of industry as done by the Wage Board and Price Commission during Phase 2.

We would then recommend that all Category 3 companies, those having less than $50 million volume, would receive special relief from the paperwork burden.

We also suggest that separate business advisory councils be established to monitor the kind of reporting required of Category 3 companies. This council should concern itself with how readily the typical small business can cope with the information requests and compliance forms.

The small businessman wants to comply with the law. Nothing that is requested here is asked as any particular favor to avoid the intent of laws already on the books. What we do ask for is recognition that small business has inherent differences from the large corporation. Many small companies are struggling for survival. Some 100,000 new firms are begun each year, and most of them are small businesses when they begin. If small business is to prosper and have a chance to continue making the major contribution to the quality of American life and to the inventive process (which is particularly strong in the small firm, as measured by the percentage of inventions that have been the work of individual inventors or have come out of the R&D of small firms), there must be a recognition that compliance with paperwork requirements is today a major problem for many small firms.

PROCUREMENT

The federal government spends in excess of $55 billion on goods and services annually. The manner in which this spending is handled has a major bearing on the development of small business. Specifically, we support:

1. Establishment of a small claims court to handle claims up to $50,000.

2. Establishment of a federal Office of Procurement Policy in the executive branch, which would coordinate and direct the government's procurement policies as they relate to the special needs of small business.

3. Mandatory subcontracting of a portion of the large contracts of prime contractors to small business.

4. Federal support of Research and Development efforts by small firms by specifically directing some portion of government R&D expenditures, the SBA to utilize the section 8A, powers and funds provided under the Research Applied to National Needs (RANN) program, and the creation of an R&D Information System for small firms.

5. Prohibition, except in certain unusual cases, of grantee use of federal supply schedules.

6. An increase in the limitation on small purchases that can be made without competitive bidding from $2,500 to $10,000.

Procedures to settle contract disputes: The procedures for settling contract disputes with the government need to be simplified. As they exist today, their operation is too expensive in terms both of time and money for the size of claim often involved.

Disputes with the governmet may arise for many legitimate reasons: disagreement over contract changes, the interpretation of the language of a contract or its specifications, or allowable costs in cases where the government has terminated a contract for its own convenience.

Board of Contract Appeals: Boards of Contract Appeals already exist to settle such disagreements. The original purpose in setting up these Boards was to provide a simple administrative remedy for what would otherwise have been litigated. However, in the time since the Boards of Contract Appeals were first set up, court decisions have required BCA hearings to be held under almost the same conditions as a trial in court.

A contractor wanting to settle a claim in a BCA must, along with his witnesses, travel to Washington for a hearing. An appeal normally costs about $5,000, and a year or more goes by before a settlement is reached, during which time the contractor has no use of the money owed him.

Proposed regional small claims division: While we realize that the safeguards provided for in a Board of Contract Appeals hearing are meant to protect all parties, the time and money involved in a hearing make the process inequitable in the case of a small company or a small claim. Therefore, we propose legislation which would set up, within the Boards of Contract Appeals, regional small claims divisions that could handle with dispatch claims of less than $50,000 per contract.

The contractor, under our proposal, would have the right to elect the full hearing approach or the small claims division. The government would not have this option. Further, the government would be required to abide by the decision but a small business could appeal to the Board of Contract Appeals. The claims would be processed regionally, avoiding the need for expensive trips to Washington. The claims could be presented by the contractor or his attorney if he so elects or his employees and by the contracting officer instead of by attorneys for both parties. There would be no formal set of pleadings, but merely a statement by both sides of the matters in dispute. Technical rules of evidence would not apply, but would be replaced by informal methods of proof. Decisions would be required within 30 days of the end of a hearing.

Access of subcontractors to government contractors: We also recommend that government prime contractors be required, in their contracts with subs, to give the subcontractor direct access to the government contracting officer involved in the contract or to a Board of Contract Appeals, or a small claims division such as called for above, in the case of a dispute with the prime contractor. There is some justification for the federal government not wanting to become involved in a dispute between a subcontractor and the prime contractor. However, a great number of the disputes which arise with subcontractors have their origin in a government change order or a contract cancellation. Because of this, we feel that it is only equitable that a subcontractor should have direct access to the government agency involved and to the court/hearing procedures which are available to the prime contractor.

Office of Procurement Policy: 2. We support the establishment of an Office of Procurement Policy in the executive branch. This office, which would be responsive to Congress, would have primary responsibility for the development of procurement policy in the government. The individual contracting agencies would still handle their own procurement. As matters stand now, the Department of Defense makes procurement policy for the military departments and the General Services Administration, under the Federal Property and Administrative Services Act, is supposed to do the same for the civilian departments. But there are numerous exceptions and restrictions on its powers. We feel, as did the Commission on Government Procurement, that many of that body's recommendations "designed to achieve more consistent policies and procedures will be difficult, if not impossible, to achieve in the absence of an effective focal point for procurement policy leadership in the executive branch."

One of the tasks of the proposed Office of Procurement Policy should be to make sure that a fair proportion of government contracted business including that of prime contractors goes to small business. While the establishment of exact percentages by which to measure what is fair may be impractical and not even in the long run interest of fairness, the Office should set some kind of standard by which to make an annual measurement of the effectiveness of the individ-

ual procuring agencies in doing business with the small business community. This office should measure not only the amount of small business contracts, but what kind of help can be given small business in getting for itself a larger share of government contracts.

Mandatory small business contracting: 3. Since 1967, the percentage of federal procurement going to small business has been declining. While we recognize the undesirability of setting up new regidities in government, we also deplore the burden small business has had to bear because of this trend. Since a good part of the contracts small business has with government are through being the subs of a prime contractor, we support the establishment, at least on a test basis, of some kind of mandatory small business contracting on the part of prime contractors.

In past periods, the amount of business put out to a subcontractor has varied widely. When government procurement is high, a prime contractor tends to subcontract as much work as possible in order to bid on more prime contracts. In such periods, large subcontractors are also busy and provide less competition for the smaller subcontractors. When government procurement tightens up, the larger contractors tend to keep more work in their own shop, so as to cover their overhead. The ups and downs of government procurement thus fall hardest on small business, as matters now exist. While we realize that small business cannot be entirely spared any of the cyclical changes that affect all business, in the interest of equity, we suggest some kind of mandatory small business subcontracting so that the effects of changes in government procurement levels do not fall disproportionately on small business.

R & D contracts: 4. Small business needs specific government help to get its share of research and development contracts. The Small Business Administration has recognized that R & D activity is highly concentrated. The four largest R & D firms in the United States do about 20% of all industrial R & D; some 100 companies account for 80% of the business. When it comes to federally funded R & D, the proportions are ever more askew. The four largest firms account for one-third of all the federal funded R & D work done by private industry. While many small R & D companies may lack the capacity to handle a government R & D contract, this is not the sole reason for the undue concentration of the business.

A part of the problem has been identified by the SBA itself as lying in the nature of much government R & D work. Small firms are most capable of handling basic or applied research. And, in fiscal 1971, (as an example), small firms got about a third of the Department of Defense's research-type contracts. Small firms are less geared to doing development contracts, and got only 3% of those awards from the DOD in 1971. But the DOD spent $4.5 billion on those contracts that year, as against only $90 million on research type contracts.

RANN funds: Our national priorities are and have been changing. This is evidenced, in part, by the Research Applied to National Needs and R & D Incentive programs, administered by the National Science Foundation (NSF). We believe, as the recognized source of innovation, that small business should achieve its deserved participation in funding under these programs. To assure this important national need, we propose that the SBA be allowed to use its Section 8A subcontract powers with small R & D firms. Under this a portion of RANN funds will be allocated to the SBA, with individual awards to be decided jointly with the NSF.

National R & D Information System: To further aid the small R & D firm, we propose a National R & D Information System to be run by the SBA. This system would provide advance warning of R & D procurements from all major departments, to small business. This capability, building upon procedures developed between SBA and DOD will give "the little guy" the same opportunity as big business, with its far-flung network of sales representatives.

Buying from federal supply sources: 5. Grantees of federal funds should not be allowed to buy from federal supply sources. During a couple recent years, the federal government opened some of its supply lists to some state and local agencies and school districts that were the recipients of federal grants. By allowing them to "shop" at federal prices, which were obtained by virtue of the federal government's position of being a major purchaser and also by its not always pricing items out at their full cost, including overhead, the government took major business away from private suppliers. In November, 1972, the General Services Administration acted, following a request by the Office of Management and Budget, to stop this practice.

The majority of the Commission on Government Procurement have adopted a stand that where some governmental purpose is accomplished by a grant (this fact supposedly being demonstrated by that grant's paying for at least 60% of the program), then federal supply sources should be available, if requested, for use by the lower level of the government in meeting the equipment and supply needs of that program.

Opposition to stand of Commission on Government Procurement: Our proposal is somewhat different, and is in line with the dissenting position taken by five of the commissioners working on the government procurement report. Our proposal is that if all costs to the public are considered, including not only all economic cost factors but the "socio-economic effects on the community" and the commercial business sector in local communities, then grantees of federal funds should normally be required to make all purchases connected with the grant directly from private business. Along with the dissenting commissioners, we recommend a prohibition against the use of federal supply sources by grantees, "except where unusual circumstances dictate and under express statutory authorization." In any cases where supplies are made available to grantees from a federal source, they should be charged on the basis of their "total economic cost" to the federal government.

Exemption from competitive bidding for small orders: 6. Simplified procedures for government procurements should be applied to all procurements under $10,000 as against the present limit of $2,500. Under the present rules, both the DOD and civilian agencies must negotiate contracts or engage in formal advertising for items over $2,500. While changing the limit to $10,000 would be expected to make such business more attractive for small firms who cannot get involved in large amounts of paperwork for relatively small jobs, it would also be of immense benefit to the government. Formally advertised contracts under $10,000 according to the Commission on Government Procurement amount to only .7 of 1% of the total dollars of military procurements, but 98% of total procurement transactions in DOD. This requested simplification of the rules would open up much small government business to the small business firm. We also suggest that the $10,000 limit be periodically reviewed and raised, in line with the GNP deflator, consumer price index, or some such commonly accepted measure of the general change in price levels.

REPRESENTATION

Small business needs a representative in Washington.

It needs representation in two ways—specifically—on groups studying particular problems which relate to the business community; more broadly, small business needs some kind of advocacy role which would help reinstate its position as one of the cornerstones in the American socio-economic system.

Specific small business representation: The specific ways in which small business needs representation are illustrated by the recent Commission on Government Procurement. One of he commissioners was a representative of small business, as was one member of the commission's working staff. Small business should be represented on various Presidential task forces, on special commissions created by Congress, and on the various ongoing government-business advisory boards.

Reasons for underrepresentation of small business: One reason for the laggard representation of the small business interest is that most businessmen in this category are not trained to think in terms of government relations and few have the time to get involved personally. The small businessman often belongs to a trade association that reflects the particular interests of his industry, but he is not inclined to band together with others simply because they are commonly engaged in small business. He typically works hard at his own business, gets involved beyond his home area.

The small business interest seems to suffer from too often being represented by a bureaucratic mentality far removed from an understanding of the actual atmosphere within which the small businessman carries on his commercial activities.

The small business interest also suffers from a generation of economic teaching which has unwittingly played up the large corporation and all large units of power, including labor unions and government. During the last 30 years, economic teaching has emphasized how the major parts of the economy have intermeshed. This emphasis has unintentionally downplayed the role of the individual unit in the economy and particularly, the role of the smaller business units. Yet, it is now becoming clear that people cannot be entirely manipulated, and that personal incentives must be understood if one is to understand why a businessman is willing to take risks, just as personal motivation must be better understood if industrial productivity is to grow faster.

Broad advocacy role: We agree with the recommendations in the Report of the President's Task Force on Improving the Prospects of Small Business that the SBA was to be responsible for identifying and analyzing "small business problems so as to be the voice and advocate of American small business". However, we think the challenge today is not for an advocacy role in the terms in which a lawyer would on an ad-hoc basis defend his client's interests in court, as much as for government through research to contribute to an analysis and definition of the problems of the American small businessman. Practical solutions are called for if the relative decline of small manufacturing business in the United States is to be halted.

The advocacy role we see for small business in Washington is similar to the role the Consumer Protection Agency plays for the consumer. The American public had problems as a consumer, but its interests were too diffused for it to easily band together as a lobby or interest group. Government, recognizing that a need existed to protect the diverse interests of consumers, rightly decided to create an agency to serve the consumer's interests. The same kind of active approach to the problems of the small business community is needed right now.

The advocacy of small business suffers because too many government employees and too much of the public business is equated with the stocks listed on the New York Stock Exchange. Broad treatment of business as if all businesses were large, well-staffed, very

profitable, and expert at representing their own case in Washington through individual lobbyists or trade groups masks the serious problems facing small business. An example of this is the passage of the Occupational Safety & Health Act, which was done with the highest intentions in mind but with disregard and lack of knowledge of its hazardous effects on some small businesses.

It is clear to us that there is considerable sentiment in Washington for helping small business. Its economic problems are at least partially recognized. It is beginning to be clearer that small business conforms more closely to the original ideas behind the U.S. free enterprise system than do some of today's giant corporations, who wield both economic and political clout. Small business is increasingly seen as a counterforce to the dehumanization process worked on many employees by the large corporation. Many of today's younger people would prefer to work and be identified with small business, but they need to have that choice available if their wishes are to mean anything. Thus, a new advocacy role for small business, set up by act of Congress, would strengthen the economic position of the small business community but more importantly contribute to building within American society the kind of business system that is more akin to the original risk-taking of traditional free enterprise and that at the same time strengthens the fabric of that society.

SUMMARY

Twenty years from now gross national product will have doubled—at least—if we can still extrapolate from the recent past. We know some other things about the future: the size of the labor force, based on the number of today's babies; the expected rise in personal income through annual hikes in productivity; the costs to the firm and indirectly to the purchasing public of consumerism and ecological concern. We also know that the large corporation will be still larger, except where anti-trust laws break up a small number of firms or where an industry defines its role too narrowly and misses the signals of change.

But we do not know what American small business will be like in twenty years. It has none of the protections that accrue to size or to widespread managerial talent. And, we submit, whatever America's wealth in another twenty years, it will be a poorer America if the small business community has not enlarged its role in and usefulness to this society.

It is because small business, somewhat like the consumer, is in totality a clear entity, in fact, a major institution in America, but in its single units not a potent or organized force, that we submit the above modest proposals as a means by which the federal government can use its authority to protect and even to encourage this very American and very deserving part of the U.S. economic fabric.

ABOUT SBANE

The Smaller Business Association of New England, Inc., is a private, non-profit, nonpartisan association of New England small companies. It was founded in 1938 to promote and protect the welfare of small business throughout the six-state region. This is accomplished by:

(1) grouping together, articulating the needs of small business, and taking common action:

(2) promoting and supporting legislation and government activities beneficial to small business and opposing those activities and legislation detrimental to the interest of the smaller business;

(3) cooperating with other small business groups; and

(4) the education of the small businessman and others in the problems which they must face in order to be successful, and the education of the small businessman as to matters which both threaten and preserve the system of free, profit-incentive, private, competitive enterprise.

The major emphasis in the programs offered to the membership are in the areas of legislation on the national level and education programs.

Besides appearances before various Congressional committees, the Association appears on Capitol Hill once a year for a Washington Presentation of specific proposals designed to assist small business.

The Association is also a member of the Small Business Economic Council, which was formed at the request of President Nixon in September, 1970, to promote awareness of small business problems with key administrative officials.

The education activities are many and varied. They include seminars and conferences held throughout New England often sponsored in conjunction with leading New England universities and Federal agencies such as the Small Business Administration.

Best known of SBANE's educational programs for the past 14 years has been the annual "Live-In" Seminar on the campus of the Harvard Business School.

The Association also publishes a monthly newsletter, Small Business News containing information and educational features for the small business executive and news about SBANE's monthly activities.

The Association's services also extend to counselling its members on small business problems and serving as a source of business information. Furthermore, the Association provides government liaison, procurement assistance and offers its members group insurance programs and trade missions.

SBANE offices are located at 69 Hickory Drive, Waltham, Massachusetts 02154.

OFFICERS

Edward H. Pendergast, Jr., President, Anthony, Pendergast, Creelman & Hill, 185 Devonshire Street, Boston, Massachusetts—Term Expires: 1973.

William B. Anderson, Vice President, Matrix, Inc., 33 Metacomet Avenue, East Providence, Rhode Island 02916—Term Expires: 1973.

James Reider, Vice President, George T. Johnson Company, 141 Middlesex Turnpike, Burlington, Massachusetts 01803—Term Expires: 1973.

Ronald F. Kehoe, Esquire, Secretary, Haussermann, Davison & Shattuck, 15 State Street, Boston, Massachusetts 02109—Term Expires: 1973.

Daniel F. Slade, Vice President, The Cricket Press, Inc., 66 Summer Street, Manchester, Massachusetts 01944—Term Expires: 1973.

Oliver O. Ward, Vice President, Athbro Precision Engineering Corporation, Hall Road, Sturbridge, Massachusetts 01566—Term Expires: 1973.

Harvey C. Krentzman, Treasurer, Advanced Management Associates, 39 Old Colony Road, Newton, Massachusetts 02167—Term Expires: 1973.

BOARD OF DIRECTORS

Paul W. Beamer, Electro-Fiberoptics, 99 Hartwell Street, W. Boylston, Massachusetts 01583—Term Expires: 1974.

Nathaniel F. Bigelow, Nathanial F. Bigelow & Company, 116 Lowell Street, Manchester, New Hampshire 03105—Term Expires: 1975.

Lola Dickerman, Esquire, Dickerman & Glazerman, 84 State Street, Boston, Massachusetts 02109—Term Expires: 1975.

Douglas S. Dillman, The Horn Corporation, Westford Road, Box 190, Ayer, Massachusetts 01432—Term Expires: 1975.

Walter Geisenhainer, Brodie, Inc., 299 Mishawum Road, Woburn, Massachusetts 01801—Term Expires: 1975.

Richard M. Glennon, Peat, Marwick, Mitchell & Company, One Boston Place, Boston, Massachusetts 02108—Term Expires: 1974.

Langdon G. Johnson, The Pace Group, 60 Washington Street, Hartford, Connecticut 06106—Term Expires: 1975.

Joseph F. McPhee, Cargocaire Engineering Corporation, 6 Chestnut Street, Amesbury, Massachusetts 01913—Term Expires: 1973.

Edwin C. Mead, Mead-Ross Associates, Box 701, Lyme Road, Hanover, New Hampshire 03755—Term Expires: 1974.

Richard P. Melick, Esquire, Parker, Coulter, Daley & White, 50 Congress Street, Boston, Massachusetts 02109—Term Expires: 1974.

Andrew M. Monahan, 128 Publishing Co., Inc., 66 Walpole Street, Box 128, Norwood, Massachusetts 02062—Term Expires: 1973.

Dr. Arthur S. Obermayer, Moleculon Research Corporation, 139 Main Street, Cambridge, Massachusetts 02142—Term Expires: 1974.

Paul W. Otto, United Engineers, Inc., 950 North Main Street, Randolph, Massachusetts 02368. Term Expires: 1975.

Kevin C. Phelan, State Street Bank & Trust Company, 225 Franklin Street, Boston, Massachusetts 02110—Term Expires: 1975.

Elinor Selame, Selame Design Associates, 2330 Washington Street, Newton Lower Falls, Mass. 02162—Term Expires: 1974.

Bernard Soep, Bernard Soep Associates, 23 Miner Street, Boston, Massachusetts 02215—Term Expires: 1973.

Roland L. Sutton, Jr., Maine Machine Products Company, Parsons Avenue, South Paris, Maine 04281—Term Expires: 1973.

Andrew P. Swanson, G. Fred Swanson, Inc., 618 Cranston Street, Providence, Rhode Island 02907—Term Expires: 1974.

Walter C. Tillinghast, Spaulding Co., Inc., 33 Pacella Park Drive, Randolph, Massachusetts 02368—Term Expires: 1975.

Roger E. Travis, Medi, Inc., 27 Maple Street, Holbrook, Massachusetts 02343—Term Expires: 1973.

Daniel F. Viles, Waltham Screw Company, 77 Rumford Avenue, Waltham, Massachusetts 02154—Term Expires: 1975.

Robert S. Westwater, Atlantic Bearings & Drives Company, 65 Inner Belt Road, Somerville, Massachusetts 02143—Term Expires: 1975.

1973 WASHINGTON PRESENTATION COMMITTEE

Chairman: Joseph J. Butare, Jr., State Street Bank & Trust Co., 225 Franklin Street, Boston, Massachusetts.

Vice Chairman: William D. Glover, Write, Inc., 178 Wade Street, Bridgeport, Connecticut.

Vice Chairman: Michael B. Rukin, Analytical Systems Corp., 11 Ray Avenue, Burlington, Massachusetts.

Donald J. Aldrich, Rhode Island Hospital Trust, 15 Westminster Street, Providence, Rhode Island.

William B. Anderson, Matrix, Inc., 33 Metacomet Avenue, East Providence, Rhode Island.

Donald F. Barry, Container Services, Inc., 109 Industrial Avenue East, Lowell, Massachusetts.

Nathaniel F. Bigelow, Nathaniel F. Bigelow & Co., 116 Lowell Street, Manchester, New Hampshire.

James A. Clary, 26 Gault Park Drive, Westport, Connecticut.

Raymond W. Cocchi, Independent Broker-Dealers Trade Assn., Baystate West, Springfield, Massachusetts.

G. Brenton Creelman, Anthony, Pendergast, Creelman & Hill, 185 Devonshire Street, Boston, Massachusetts.

Robert T. Davison, Aberdeen & Company, 483 Boston Post Road, Weston, Massachusetts.

Lola Dickerman, Esquire, Widett & Widett, 100 Federal Street, Boston, Massachusetts.

Douglas S. Dillman, The Horn Corporation,

Westford Road—Box 190, Ayer, Massachusetts.

Richard M. Glennon, Peat, Marwick, Mitchell & Co., One Boston Place, Boston, Massachusetts.

Robert H. Goff, Jr., Price Waterhouse Co., 1200 Hartford Bldg., Providence, Rhode Island.

Richard J. Guilfoyle, I.M.M.G. Investments, Inc., 160 Old Derby Road, Hingham, Massachusetts.

Stanley W. Horsman, Plymouth-Home National, 34 School Street, Brockton, Massachusetts.

Raymond L. Hunicke, Lewis Corporation, Main Street, Woodbury, Connecticut.

Ronald Kehoe, Esquire, Haussermann, Davis & Shattuck, 15 State Street, Boston, Massachusetts.

August J. Kochis, Eckel Industries, Inc., 50 Regent Street, Cambridge, Massachusetts.

Harvey C. Krentzman, Advanced Management Associates, 39 Old Colony Road, Newton, Massachusetts.

Richard G. Lee, Lee Packaging Machinery Corp., 178 Crescent Road, Needham Heights, Massachusetts.

Robert S. Lee, Hotwatt, Inc., 28 Maple Street, Danvers, Massachusetts.

Philip G. Lovelett, Leasing of New England, Inc., 220 Main Street, Auburn, Maine.

Edwin C. Mead, Mead-Ross Associates, Box 701, Hanover, New Hampshire.

Joseph F. McPhee, Cargocaire Engineering Corp., 6 Chestnut Street, Amesbury, Massachusetts.

Andrew Monahan, 128 Publishing, 66 Walpole Street, Norwood, Massachusetts.

Gregory Muzzi, Peat, Marwick, Mitchell & Co., 40 Westminster Street, Providence, Rhode Island.

James Ofria, Contract Machining Corp., 18 A Street, Burlington, Massachusetts.

Kevin Phelan, State Street Bank & Trust Co., 225 Franklin Street, Boston, Massachusetts.

Nicholas Picchione, Dome Publishing Co., Inc., 480 Benefit Street, Providence, Rhode Island.

Robert U. Porter, Porter Construction Co., Inc., 84 Arsenal Street, Watertown, Massachusetts.

Maynard W. Powning, Koehler Manufacturing Co., 123 Felton Street, Marlboro, Massachusetts.

William Shaw, United Packaging Corp., 172 East Maine Street, Georgetown, Massachusetts.

S. Abbot Smith, 137 Marlboro Street, Boston, Massachusetts.

Bernard Soep, Bernard Soep Associates, 280 Lincoln Street, Boston, Massachusetts.

Martin B. Stocklan, Louis Sack Co., Inc., 24 Lake Street, Somerville, Massachusetts.

Philip R. Temple, Filfast Corporation, Pope Road, Holliston, Massachusetts.

Henry Villaume, Howell Laboratories, Inc., Gibbs Avenue, Bridgton, Maine.

Joseph Weinrebe, Republic Travel Service, 312 Stuart Street, Boston, Massachusetts.

John H. Westerbeke, J. H. Westerbeke Corp., 35 Tenean Street, Boston, Massachusetts.

SBANE STAFF

Lewis A. Shattuck, CAE, Executive Vice President.

Phyllis E. Marcus, Administrative Assistant.

Marcia L. Montgomery, Staff Assistant/Bookkeeper.

Joan M. Sweet, Director, Membership Development.

ABOUT IBAW

The Independent Business Association of Wisconsin, Inc., was organized as a result of a Statewide Conference on Independent Business Problems in Wisconsin held on October 14, 1970. As a result of this day long conference, a small group of dedicated businessmen formed a Steering Committee to explore the establishment of an organization to represent Independent Business in Wisconsin.

Under the strong leadership of Chairman Herman Williams, this committee developed IBAW as a non profit, non partisan association for the purpose of encouraging stability, growth, and profit, with high ethical standards, for independent business in Wisconsin. Membership is open to businesses engaged in manufacturing, wholesaling, retailing, and service industries. Professional businesses which provide advisory services are able to join as Associate Members.

The objectives of IBAW are:

To inform on legislation & taxation on a local, The State & national level.

To educate for management development & personal business growth.

To exchange ideas, discuss common problems & their solutions.

IBAW has organized and sponsored programs in cooperation with University of Wisconsin Extension; Small Business Administration; local Chambers of Commerce; State Division of Economic Development; Council of Independent Managers—Society for Advancement of Management; Center for Venture Management; National Council for Small Business Management Development and other groups interested in the growth of independent business in the State of Wisconsin.

The First Annual Meeting of IBAW was held April 27, 1971, in Milwaukee, Wisconsin. This conference on Financial Management was attended by over 75 businessmen and women. Mr. Herman Williams was elected the first President of IBAW.

During 1971, three management development luncheon programs "Help Yourself to Profits", "Small Business Tax Reform", and "Wage and Price Freeze, Phase 2" were held.

In 1972, informational legislative activity included the First Annual Wisconsin Legislative Day in Madison and participation with SBANE during Small Business Week, May 16 & 17, 1972 in Washington, D.C.

Management development workshop included "OSHA—How It Affects Your Profits Now!" and "Problems in Dealing with the State Department of Industry, Labor and Human Relations."

Breakfast Club programs, "Meet Your Congressman," "Technology Transfer—an emerging industry", "Mergers and Acquisitions for Independent Business" were well attended.

Legislative Luncheons to meet "eyeball to eyeball" with State Representatives and Senators is a continuing program.

A newsletter, "INTERCOM", covers the activities of the Association.

IBAW offices are located at 10855 West Potter Road, Milwaukee, Wisconsin 53226, telephone (414) 258–7055.

INDEPENDENT BUSINESS ASSOCIATION OF WISCONSIN

1972–1973 officers and directors

Herman Williams '75, President, Williams Steel & Supply, Inc., 999 W. Armour Avenue, Milwaukee, WI 53221, Phone: 481–7100.

Bruno J. Mauer '75, Vice-President, Rickert Industrial Supply Co., 2942 North 117th Street, Milwaukee, WI 53222, Phone: 476–7600.

Roland Sprenger '75, Treasurer, Allis Tool & Mach. Corp., 647 South 94th Place, Milwaukee, WI 53214, Phone: 258–5511.

Richard C. Moog '73, Secretary, Crane Mfg. & Service Corp., 6000 So. Buckhorn, Cudahy, WI 53110, Phone: 769–8162.

Everett Hokanson '73, Wire & Mtl. Spec., Inc., 4021 So. Kinnickinnic, Milwaukee, WI 53207, Phone: 483–5660.

Richard C. Moog '73, Crane Mfg. & Service Corp., 6000 So. Buckhorn, Cudahy, WI 53110, Phone: 769–8162.

Ken Persson '73, Lake Mills Concrete Prod., P.O. Box 1, Lake Mills, WI 53551, Phone: 648–5012.

Angelo Ditello '74, Nat'l. Transit Cartage, 2619 S. 5th St., Milwaukee, WI 53204, Phone: 384–1900.

Harry J. Humphries '74, Humphries-Hansen, Inc., 8515 West Kaul Ave., Milwaukee, WI 53225, Phone: 353–8515.

Robert H. Taylor '74, Engman-Taylor Co., Inc., 2830 West Stark, Milwaukee, WI 53209, Phone: 873–2520.

Bruno J. Mauer '75, Rickert Industrial Supply Co., 2942 North 117th St., Milwaukee, WI 53222, Phone: 476–7600.

Roland Sprenger '75, Allis Tool & Mach. Corp., 647 South 94th Place, Milwaukee, WI 53214, Phone: 258–5511.

Herman Williams '75, Williams Steel & Supply, Inc., 999 W. Armour Ave., Milwaukee, WI 53221, Phone: 481–7100.

1972–1973 Legislative Committee IBAW

Bruno J. Mauer, Chairman, Rickert Industrial Supply Company.

Harold Clemens, Vice-Chairman, Small Business Administration—Milwaukee.

Delyle G. Beyer, D. G. Beyer, Inc.

William B. Ellis, Curtis Development & Mfg. Company.

Eckhardt Grohmann, Aluminum Casting & Engineering Company.

Howard Heckel, Northern Gases & Supplies Co., Inc.

Dr. John Komives, Center for Venture Management.

Richard Krauthoefer, Siekert and Baum, Inc.

Roland Sprenger, Allis Tool & Machine Corp.

Stanley Steffke, Foreway Express, Inc.

ABOUT SMC

The Smaller Manufacturers Council, the only organization in the United States serving small manufacturers exclusively, was formed in 1945 by a group of 16 Pittsburgh manufacturers.

During World War II the U.S. Government sponsored the Smaller War Plants Corporation to assist small industrial plants in bidding on and carrying out defense contracts. The need for the corporation ended with the end of the war but the 16 Pittsburgh entrepreneurs didn't want to give up the close working relationships which had developed during the war years. If working together as a group, meeting to exchange ideas and pool experience, had worked during the war, why not also in peace, they reasoned.

In April, 1945, the Council was organized on the basic idea that "In Unity There Is Strength." The purpose from the beginning was to serve member-companies and the Tri-State area of Western Pennsylvania, Eastern Ohio and Northern West Virginia through cooperative action—to pool experience, resources and energy to achieve constructive business and civic results that no individual small manufacturer could hope to accomplish alone. Eleven active committees, ranging from Government Relations to Environmental/Sociological, assure that the original purpose of the organization is continued today.

As word of the activities of the Smaller Manufacturers Council spread throughout the country, manufacturing companies in cities outside the original Tri-State area became interested. In October, 1972, 17 representatives of companies or groups from 10 cities in 6 states gathered in Pittsburgh for the story of how to establish similar groups in their areas. Since then, several organizations, based on the SMC philosophy and practice, have been formed in those cities.

Those original companies in the SMC were headed by men who knew how to get things done. Through the years the same has been true of the various officers and directors and that, more than anything else, explains the dynamic growth of the first Smaller Manufacturers Council from a group of 16 mem-

ber-companies to more than 530 member-companies today, employing some 55,000 persons and with annual collective sales of over one billion dollars.

SMALLER MANUFACTURERS COUNCIL

Officers

Wm. H. Braunlich, Jr., President.
Alex. T. Kindling, First Vice-President.
A. Warne Boyce, Second Vice President.
Paul S. Steiner, Treasurer.
John W. Hannon, Secretary.
Leo R. McDonough, Executive Vice-President.

Directors

Jos. F. Pfenninger, President, Schaefer-Goodnow Fdries, Inc., 2—36th Street, Pittsburgh, Pa. 15201.

F. S. Speicher, Jr., President, M. E. Cunningham Co., Rochester Road, Ingomar, Pa. 15127.

Paul S. Steiner, President, "Visual" Industrial Products, Inc., Box 500, Indianola, Pa. 15051.

A. Warne Boyce, President, Microbac Laboratories, Inc., 4580 McKnight Road, Pittsburgh, Pa. 15237.

Wm. H. Braunlich, Jr., President, Braunlich-Roessle Co., 3117-27 Penn Ave., Pittsburgh, Pa. 15201.

H. Edward Cable, Chairman, Weld Tooling Corp., 3001 W. Carson St., Pittsburgh, Pa. 15204.

Stephen S. Evans, Vice-President, Allegheny Plastics, Inc., 17 Thorn Run Road, Coraopolis, Pa. 15108.

William Gluck, Owner, Gluco, Box 336, Monroeville, Pa. 15146.

John W. Hannon, President, Maynard Research Council, Inc., 300 Alpha Dr., Pittsburgh, Pa. 15238.

Alex. T. Kindling, President, The Atomatic Manufacturing Co., 300 Shadeland Ave., East Pittsburgh, Pa. 15112.

Ralph W. Murray, President, IDL Inc., 535 Old Frankstown Road, Pittsburgh, Pa. 15239.

Carl N. Neuman, Vice-President, Advertisers Associates, Inc., 1627 Penn Avenue, Pittsburgh, Pa. 15222.

Government Relations Committee

A. Warne Boyce, Vice-President and Chairman.

Harry G. Austin, Jr., (James Austin Co., Mars, Pa.).

Wm. H. Braunlich, Jr. (Braunlich-Roessle Co., Pittsburgh).

H. Edward Cable (Weld Tooling Corp., Pittsburgh).

C. Dana Chalfant (Weinman Pump & Supply Co., Pittsburgh).

G. Robert Cox (J. P. Devine Mfg. Co., Pittsburgh).

Frank B. Fairbanks, Jr. (Horix Manufacturing Co., Pittsburgh).

Darrell N. Harper (Independent Mining & Mfg. Co., Connellsville, Pa.)

James L. Henderson, Jr. (Robinson Industries, Inc., Zelienople, Pa.).

Andrew Kondas (Universal Air Precipitator Corp., Monroeville, Pa.).

Robert S. Lind (J. S. McCormick Co., Pittsburgh).

Sam Michaels (Pittsburgh Annealing Box Co., Pittsburgh).

Ralph W. Murray (IDL, Inc., Pittsburgh).

William S. Perkins (Woodings-Verona Tool Works, Verona, Pa.).

Phil F. Sauereisen (Sauereisen Cements Co., Pittsburgh).

Jon R. Swoager (Automation Equipment Inc., Imperial, Pa.).

John W. Trubic (Penn Perry Roofing, Inc., Pittsburgh).

Mr. KENNEDY. Mr. President, let me also add that, in recent months, the Small Business Administration has provided valuable increased assistance to firms in the Commonwealth of Massachusetts. During the first 9 months of the current fiscal year, SBA provided 390 regular business loans totaling $21.8 million; during the same period in the fiscal year 1972 350 such loans were made, totaling $18.5 million. In addition, since March, 1973, SBA has made available 2093 disaster loans to Massachusetts, totaling $10.1 million. The principal loans were made for the Plymouth County Labor Day storm, 108 loans totaling $562,000; the February 1973 northeastern storm, 1804 loans totaling $7.8 million; and the recent Red Tide disaster, 181 loans totaling $1.6 million.

In the past, SBA has played a significant role in preserving the vitality of small business. It is my hope that the amendment I am offering today will assist Congress and the administration in providing even more effective assistance in the years to come, and I hope that it will be approved by the Senate.

Mr. CRANSTON. Mr. President, such reports proposed by the Senator would be very useful, and I am delighted to accept and support the amendment.

Mr. TOWER. Mr. President, I yield myself such time on the bill as I may require.

I yield 1 minute to the Senator from New York.

Mr. JAVITS. I wish to ask the chairman of the Small Business Committee a question. I am the ranking member of that committee.

This amendment goes very deeply to our work in dealing with the whole small business field. I have discussed it with the Chairman. He feels, if I understand him correctly, that we should allow this amendment to go into this bill, but that our committee will consider it; and if we think that any changes are needed to conform to the policies we advocate for small business, he feels that there is adequate room in the legislative process, by conference or in other body, to do what needs to be done. Is my understanding correct?

Mr. BIBLE. The Senator has stated my impression of this amendment correctly. I see no real objection to it. I have checked it with the staff, and they feel that this additional information is helpful.

If, on further examination, we do find some problems in it, we can take the corrective action at that time. Personally, I have no objection to it. Obviously, I have not checked it with all the committee members.

Mr. JAVITS. I thank the Senator. I thought that in fairness to the Small Business Committee, these facts should be spread on the RECORD.

The PRESIDING OFFICER (Mr. PACKWOOD). Who yields time?

Mr. CRANSTON. I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. TOWER. I ask for third reading, Mr. President.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, 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. Who yields time?

Mr. TOWER. I yield 1 minute on the bill to the Senator from Ohio.

Mr. TAFT. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and conforming changes in the engrossment of the bill. The reason I ask this is that the Stevenson amendment to the Taft amendment changed the $2,500 in one place to $4,000 and failed to change it on another line.

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

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

Mr. CRANSTON. I yield back the remainder of my 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 Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Wyoming (Mr. MCGEE), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that the Senator from Texas (Mr. BENTSEN) is absent on official business.

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

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Iowa (Mr. HUGHES) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Illinois (Mr. PERCY) is absent by leave of the Senate on official business.

The Senator from Colorado (Mr. DOMINICK), the Senator from North Carolina (Mr. HELMS), and the Senator from Virginia (Mr. SCOTT) are absent on official business.

The Senator from Kansas (Mr. DOLE), the Senator from Hawaii (Mr. FONG), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

Also, the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

If present and voting, the Senator from Maryland (Mr. MATHIAS) and the Senator from Kentucky (Mr. COOK) would each vote "yea."

The result was announced—yeas 82, nays 1, as follows:

[No. 147 Leg.]

YEAS—82

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

NAYS—1

Proxmire

NOT VOTING—17

Bentsen	Hartke	McIntyre
Cook	Helms	Percy
Cotton	Hughes	Saxbe
Dole	Humphrey	Scott, Va.
Dominick	Mathias	Stennis
Fong	McGee	

So the bill (S. 1672) was passed, as follows:

S. 1672

An act to amend the Small Business Act

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

AUTHORIZATION

SECTION 1. Paragraph (4) of section (4) (c) of the Small Business Act is amended—

(1) by striking out "$4,300,000,000" and inserting in lieu thereof "$6,600,000,000";

(2) by striking out "$500,000,000" where it appears in clause (B) and inserting in lieu thereof "$725,000,000";

(3) by striking out "$500,000,000" where it appears in clause (C) and inserting in lieu thereof "$600,000,000"; and

(4) by striking out "$350,000,000" and inserting in lieu thereof "$475,000,000".

LOANS TO MEET REGULATORY STANDARDS

SEC. 2. (a) The first sentence of section 7 (b) of the Small Business Act is amended by striking out all that follows paragraph (4) through paragraph (6) and inserting in lieu thereof the following:

"(5) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in effecting additions to or alterations in its plant, facilities, or methods of operation to meet requirements imposed on such concern pursuant to any Federal law, any State law enacted in conformity therewith, or any regulation or order of a duly authorized Federal, State, regional, or local agency issued in conformity with such Federal law, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph: *Provided*, That the maximum loan made to any small business concern under this paragraph shall not exceed the maximum loan which, under rules or regulations prescribed by the Administration, may be made to any business enterprise under paragraph (1) of this subsection; and".

(b) Paragraph (7) of the first sentence of section 7(b) of such Act is redesignated as paragraph (6).

(c) Section 28(d) of the Occupational Safety and Health Act of 1970 (Public Law 91–596) is amended by striking out "7(b)(6)" and inserting in lieu thereof "7(b)(5)".

SEC. 3. (a) Subsection (g) of section 7 of the Small Business Act, as added by section 3(b) of the Small Business Investment Act Amendments of 1972, is redesignated as subsection (h).

(b) Subsection (c) of section 4 of the Small Business Act is amended by striking out "7(g)" each place it appears in paragraphs (1)(B), (2), and (4) and inserting in lieu thereof "7(h)".

DISASTER LOANS

SEC. 4. (a) The second paragraph following the numbered paragraphs of section 7(b) of the Small Business Act is amended by striking out the following: "and prior to July 1, 1973,".

(b) Clause (D) of the second paragraph following the numbered paragraphs of section 7(b) of the Small Business Act is amended—

(1) by striking the "and" at the end of subclause (i);

(2) by striking out "July 1, 1973" in subclause (ii) and inserting in lieu thereof "April 20, 1973";

(3) by striking the period at the end of subclause (ii) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new subclause:

"(iii) with respect to a loan made in connection with a disaster occurring on or after April 20, 1973, notwithstanding the provisions of Public Law 93–24, the total amount so canceled shall in no case exceed ($4,000, and the per centum of the principal of the loan to be canceled shall be reduced by 4 for each $1,000 by which the borrower's income exceeds $10,000, but such per centum to be canceled shall not be less than 20 unless the total amount so canceled would otherwise exceed $4,000. For the purpose of this subclause (iii), 'income' means—

"(I) except in the case of a borrower who retires or becomes disabled in either the taxable year in which the loss or damage is sustained or the preceding taxable year, or in the case of a borrower which is a corporation, adjusted gross income, as defined in section 62 of the Internal Revenue Code of 1954, reduced by $300 for each deduction for personal exemptions allowable to the borrower under section 151 of such Code, for the taxable year preceding the taxable year in which the loss or damage is sustained,

"(II) in the case of a borrower who retires or becomes disabled in the taxable year in which the loss or damage is sustained or in the previous taxable year, adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954, reduced by $300 for each deduction for personal exemptions allowable to the borrower under section 151 of such Code, as estimated by the Administrator for the taxable year after the taxable year in which the loss or damage is sustained, and

"(III) in the case of a corporation, taxable income, as defined in section 63 of the Internal Revenue Code of 1954, for the taxable year preceding the taxable year in which the loss or damage is sustained."

(c) Notwithstanding the provisions of any other law, in the case of a disaster occurring on or after April 20, 1973, the Secretary of Agriculture shall make disaster loans at the same rate of interest and with the same forgiveness provisions applicable to Small Business Administration disaster loans pursuant to this section.

AUTHORITY OF SECRETARY OF AGRICULTURE WITH RESPECT TO NATIONAL DISASTERS

SEC. 5. Notwithstanding the provisions of Public Law 93–24, the Secretary of Agriculture shall continue to exercise his authority with respect to natural disasters which occurred after December 26, 1972, but prior to April 20, 1973, in accordance with the provisions of section 5 of Public Law 92–385 of such section which was in effect prior to April 20, 1973.

LIVESTOCK LOANS

SEC. 6. Section 7(b)(4) of the Small Business Act is amended by inserting before the semicolon at the end thereof the following: ": *Provided*, That loans under this paragraph include loans to persons who are engaged in the business of raising livestock (including but not limited to cattle, hogs, and poultry), and who suffer substantial economic injury as a result of animal disease".

EROSION ASSISTANCE

SEC. 7. The Disaster Relief Act of 1970 is amended by inserting in section 101(a)(1) between the words "high waters," and "wind-driven waves," the following: "erosion," and inserting in section 102(1) between the words "high waters," and "wind-driven waves," the following: "erosion,".

LOANS FOR ADJUSTMENT ASSISTANCE IN BASE CLOSINGS

SEC. 18. The first sentence of section 7(b) of the Small Business Act is amended by adding after paragraph (6) the following new paragraph:

"(7) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in continuing in business at its existing location, in reestablishing its business, in purchasing a new business, or in establishing a new business if the Administration determines that such concern has suffered or will suffer substantial economic injury as the result of the closing by the Federal Government of a major military installation under the jurisdiction of the Department of Defense, or as a result of a severe reduction in the scope and size of operations at a major military installation."

ANNUAL REPORT ON STATE OF SMALL BUSINESS

SEC. 9. The first sentence of subsection (a) of section 10 of the Small Business Act and the first word of the second sentence of such subsection are amended to read as follows: "The Administration shall, as soon as practicable each calendar year make a comprehensive annual report to the President, the President of the Senate, and the Speaker of the House of Representatives. Such report shall include a description of the state of small business in the Nation and the several States, and a description of the operations of the Administration of the Administration under this chapter, including, but not limited to, the general lending, disaster relief, Government regulation relief, procurement and property disposal, research and development, technical assistance, dissemination of data and information, and other functions under the jurisdiction of the Administration during the previous calendar year. Such report shall contain recommendations for strengthening or improving such programs, or, when necessary or desirable to implement more effectively Congressional policies and proposals, for establishing new or alternative programs. In addition, such".

Mr. TOWER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the legislative

counsel may make technical corrections in the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The Secretary of the Senate already has that authority.

DESIGNATION OF DIGESTIVE DISEASES WEEK

Mr. KENNEDY. Mr. President, I ask unanimous consent to introduce a joint resolution and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

There being no objection, the joint resolution (S.J. Res. 114) was read the first time by title and the second time at length.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. KENNEDY. Mr. President, the joint resolution calls upon the President of the United States to proclaim the week of May 20, 1973, as Digestive Diseases Week.

Mr. President, this is an entirely appropriate time to draw attention to the tragic toll which digestive diseases take in the United States. For example, 13 million Americans have chronic digestive disease and more people are hospitalized with a diagnosis of digestive disease than with any other disease in the United States.

In recognition of this great problem, Mr. President, I introduced in the Senate on January 26, 1971, S. 305, the National Digestive Diseases and Nutrition Act, and on May 5, 1972, legislation incorporating the essential elements of that bill was sent to the President. That legislation broadened the scope and the name of the National Institute of Arthritis and Metabolic Diseases of the National Institutes of Health to include a major effort in respect to digestive diseases.

Since then, Mr. President, many professionals, physicians, and research experts throughout America have come together to found the American Digestive Disease Society, along with its affiliate the National Foundation for Ileitis and Colitis.

Mr. President, I am delighted to join with the ranking minority member of the Senate Committee on Labor and Public Welfare to introduce this resolution, which calls upon the President to proclaim next week "Digestive Diseases Week."

The major digestive diseases are: Peptic ulcer, ulcerative colitis, hepatitis, cirrhosis of the liver, gallstones, ileitis, infectious diarrhea, cancer of the colon/rectum, and malabsorption.

I would emphasize that we are not speaking of a minor, obscure area of health care.

One out of every six illnesses suffered by our people is a digestive disease.

Digestive disease is the major or contributing cause of the hospitalization of over 5 million persons each year. As such, it is the Nation's No. 1 cause of hospitalization, exceeding heart disease, accidents, and even childbirth.

Diseases of the digestive tract include several of the most common forms of cancer which account for about 30 percent of all cancer deaths.

One of the digestive diseases, cirrhosis of the liver, is, by itself, one of the leading causes of death in this country.

Not only is digestive disease marked by high incidence, but it is the No. 2 cause of disability in this country. Some 400,000 people are totally disabled from digestive diseases, while another 800,000 are limited in their ability to work. Each day, digestive disease results in 200,000 absentees from work—the leading cause of absenteeism among men.

Among veterans, nearly 140,000 men receive payments for service-connected digestive disease conditions. This alone costs the Nation $100 million annually.

The total economic cost to the Nation of these diseases is truly staggering. Dr. Thomas Almy, a past president of the American Gastroenterological Association, estimated the total cost to be $10 billion per year, based on HEW figures. Just the cost to the American people of surgery for one digestive disease—gallbladder disease—is estimated to be a half-billion dollars.

From examining any number of indices, therefore, it is clear that digestive disease is a very major disease category which is taking a great toll in this Nation in terms of lives, suffering, incapacitation, and economic cost.

The obvious next question is: What can be done to reduce this toll?

The answer, as with most health problems, is more research into the causes of these diseases coupled with an increase in the number of practitioners specially trained to treat the conditions.

In recent years, the National Institutes of Health have been doing relatively little research in the digestive disease area.

We all know it is impossible to predict which specific diseases will be eliminated or alleviated by a program of accelerated biomedical research. However, the prospects for some early successes in the digestive disease field appear quite good.

For example, there has been recent progress area of viral hepatitis—one of the digestive diseases. As a result, it is now possible to identify one of the two types of viruses which cause that disease. This finding has already been put to very practical, life-saving use in the area of blood banking, where hepatitis is often spread through the transfusion process. Many lives are being saved by our new-found ability to detect the one type of virus in blood samples—blood containing such viruses is no longer being used in transfusions. Even more lives will be saved, however, when scientists are able to identify the other type of virus. For this, more research is needed.

Similarly, there has been some dramatic progress made in the field of gallstone control. Researchers at the Mayo Clinic think a way may have been found to "dissolve" gallstones without surgery. Practical application of these findings, however, will require substantially more work.

I urge my colleagues to give this resolution their full support.

Mr. GRIFFIN. Mr. President, as I understand it, the resolution has been checked with the ranking minority member of the Committee on the Judiciary, Senator HRUSKA.

Mr. KENNEDY. The Senator is correct.

Mr. GRIFFIN. Mr. President, I have seen the resolution, and it will not cost the taxpayers any money. I think it is appropriate that the Senate pass the joint resolution.

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

Mr. KENNEDY. Mr. President, the Senator from New York is a cosponsor of the resolution. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I commend the joint resolution to the Senate. I have just addressed this group, and it is very representative, and it does fine work.

Mr. President, I am pleased to join with Senator KENNEDY in the introduction of a joint resolution authorizing the President to proclaim the week of May 20 to 26, 1973, as "Digestive Diseases Week."

Only last year, Congress concluded that digestive diseases are a major national health challenge of a magnitude not previously recognized. There was enacted into law Public Law 92–305, which changed the name of the National Institute of Arthritis and Metabolic Disease to the National Institute of Arthritis, Metabolism and Digestive Disease—NIAMDD—created the position of Associate Director for Digestive Disease and Nutrition within the NIAMDD; expanded the Council of that Institute to include more digestive disease and nutrition scientists; and emphasized the critical need for more support of research and training in the field.

In contrast with the size of the problem—13 million Americans have chronic digestive disease, and such conditions constitute the No. 1 reason for hospitalization in the United States—distressingly little effort has been directed at reducing the burden of digestive diseases.

If we are to create a partnership of Federal and private sector support—of a remedial program for digestive disease—the public must become better informed and knowledgeable about digestive disease. A Presidential proclamation designating the week of May 20 to 26, 1973, as "Digestive Diseases Week" would make that possible by focusing public attention on the problem of digestive diseases.

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 114) was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

SENATE JOINT RESOLUTION 114

Whereas Digestive diseases, which include ileitis, colitis, peptic ulcer, gastritis, hepatitis,

cirrhosis of the liver, pancreatitis; gallstones, infectious diarrhea, malabsorption, and cancer of the esophagus, stomach, pancreas, colon and rectum and associated intestinal disorders, are responsible for one out of every six illnesses suffered by Americans, are the cause of suffering to one-half the population of the United States annually, and chronically afflict 21 million Americans annually; and

Whereas Digestive Diseases are the cause of the loss of 300 million man days of productive work annually, are a cause of the economic loss to this Nation of an estimated 8.1 billion dollars annually due to disability and income loss due to premature death; and

Whereas Digestive Diseases are the cause of untold suffering to our people, requiring more than five million people to be hospitalized annually: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week of May 20–26, 1973, as "Digestive Disease Week"; and inviting the people of the United States to celebrate such week with appropriate activities.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting a nomination was communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. BIDEN) laid before the Senate a message from the President of the United States submitting the nomination of Paul Rex Beach, of Virginia, to be U.S. Director of the Asian Development Bank, with the rank of Ambassador, which was referred to the Committee on Foreign Relations.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the calendar, beginning with the Department of State.

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

The PRESIDING OFFICER (Mr. BARTLETT). The first nomination will be stated.

DEPARTMENT OF STATE

The second assistant legislative clerk proceeded to read sundry nominations in the Department of State.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that those nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

INTER-AMERICAN DEVELOPMENT BANK

The second assistant legislative clerk read the nomination of John M. Porges, of New York, to be Executive Director of the Inter-American Development Bank.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The SECOND ASSISTANT LEGISLATIVE CLERK. Routine nominations placed on the Secretary's desk in the Diplomatic and Foreign Service.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

ORDER FOR CONSIDERATION OF URGENT SUPPLEMENTAL APPROPRIATION BILL

Mr. MANSFIELD. Mr. President, as in legislative session, I ask unanimous consent that when the urgent supplemental appropriation bill is reported out of committee, as I believe it will be today, or tomorrow at the latest, it be laid before the Senate and made the pending business prior to the recess of the Senate over Memorial Day and that it be the pending business on our return.

Mr. GRIFFIN. Mr. President, reserving the right to object—and I shall not object—I wonder if I could inquire whether consent has been given for the Senator from Nebraska to file his minority views up until Friday midnight.

Mr. MANSFIELD. We have done that.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

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

The PRESIDING OFFICER. The Chair would like to know if the Senator asked unanimous consent, in executive session, that the President be notified.

Mr. MANSFIELD. No; my only request was that the Senate return to legislative session. I did not make a request that the President be immediately notified.

The PRESIDING OFFICER. The question is that the order be rescinded making such a request?

Mr. MANSFIELD. Yes, if such a request has been made it should be rescinded. The nominations have been confirmed, and I asked that the Senate return to legislative session.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES DURING ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until Monday next, the Secretary of the Senate be authorized to receive messages from the House of Representatives and the President of the United States and that they may be appropriately referred.

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

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS DURING ADJOURNMENT OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until Monday next, all committees may be authorized to file reports.

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

AUTHORIZATION TO SIGN DULY ENROLLED BILLS AND JOINT RESOLUTIONS DURING ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until Monday next, the Vice President, the President pro tempore, and the Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

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

UNANIMOUS-CONSENT AGREEMENT ON PEACE CORPS BILL

Mr. ROBERT C. BYRD. Mr. President, I am authorized by the distinguished majority leader, and with the approval of the distinguished assistant Republican leader, to ask unanimous consent that at such time as the so-called Peace Corps bill is called up and made the pending business before the Senate, there be a time limitation thereon of one-half hour, to be equally divided between the distinguished majority leader and the distinguished minority leader or their designees; that time on any amendment, debatable motion, or appeal, thereto be limited to 20 minutes; and that the agreement be in the usual form.

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

The text of the unanimous consent agreement is as follows:

Ordered, That, during the consideration of H.R. 5293, a bill authorizing continuing appropriations for the Peace Corps, and H.R. 5610, a bill to amend the Foreign Service Buildings Act, 1926, debate on any amendment, debatable motion or appeal shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the bills shall be received.

Ordered further, That on the question of the final passage of the bills debate shall be limited to one half hour each, to be equally divided and controlled, respectively, by the Senator from Montana (Mr. Mansfield) and the Senator from Pennsylvania (Mr. SCOTT), or their designees: *Provided,* That the said Senators, or either of them may from the time under their control on the passage of the said bills, allot additional time to any Senator during the consideration of any amendment, motion or appeal.

UNANIMOUS-CONSENT AGREEMENT ON STATE DEPARTMENT BUILDINGS BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the so-called State Department Buildings measure (H.R. 5610) is called up and made the pending business before the Senate, there be a similar agreement thereon with respect to time and that the agreement be in the usual form.

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

UNANIMOUS-CONSENT AGREEMENT ON S. 1798, STRUCTURE AND REGULATION OF FINANCIAL INSTITUTIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 1798, a bill to extend for 1 year the authority for more flexible regulation of maximum rates of interest or dividends payable by financial institutions, is called up and made the pending business before the Senate, there be a time limitation thereon of 2 hours, the time to be equally divided between and controlled by Mr. SPARKMAN and Mr. TOWER; that time on any amendment thereto be limited to 1 hour; that time on any amendment to an amendment, debatable motion, or appeal be limited to 30 minutes; and that the agreement be in the usual form.

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

The text of the unanimous-consent agreement is as follows:

Ordered, That, during the consideration of S. 1798, a bill to extend for 1 year the authority for more flexible regulation of maximum rates of interest or dividends payable by financial institutions, to amend certain laws relating to federally insured financial institutions, debate on any amendment in the first degree shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any amendment in the second degree, debatable motion or appeal shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Alabama (Mr. Sparkman) and the Senator from Texas (Mr. Tower): *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion, or appeal.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now may be a period for the transaction of routine morning business for not to exceed 1 hour, with statements limited therein to 30 minutes.

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

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called 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, is there further morning business?

I withdraw that request.

The PRESIDING OFFICER. The request is withdrawn.

Mr. JAVITS. Mr. President, if the Senator will yield, I noticed that the unanimous-consent request was for an hour, with statements limited to 30 minutes. That would mean two Senators could consume the hour. I understand the situation, but I would just like to suggest to the Senator that he limit statements in the second part of the hour to less than 30 minutes. I want the floor for 5 or 6 minutes. I would suggest that Senators, after the half hour of the Senator from South Dakota (Mr. MCGOVERN), may have 10 minutes each.

Mr. ROBERT C. BYRD. Mr. President, Senators can have 30 minutes, if they want to. They can also have anything less.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

CAMBODIA: LET US STOP IT NOW

Mr. MCGOVERN. Mr. President, Mr. Kissinger said in a recent address:

> Nothing is more urgent than a serious, dare I say compassionate, debate as to where we are going at home and abroad.

I myself had something of that sort in mind last fall, and I am still in favor of it. Assuming that Mr. Kissinger is speaking for his employer as well as himself, I take this occasion to express some thoughts about the continuing war in Cambodia and its implications for "where we are going at home and abroad." I am not confident of mustering as much "compassion" for our policymakers as Mr. Kissinger commands, or as Mr. Nixon would undoubtedly think his due, but I would join gladly with Mr. Nixon and Mr. Kissinger in a measure of compassion for the victims of their wide-ranging B–52 raids in Cambodia that have now been going on for several weeks.

MR. NIXON'S POST-VIETNAM WAR

The purpose of the bombing, quite evidently, is to keep the demoralized Cambodian army, and with it the enfeebled regime in Phnom Penh, from collapsing under the pressure of the Khmer Rouge rebels. It is conceded by American observers that the Cambodian rebels are now fighting their own war, with North Vietnamese logistical support but few North Vietnamese or Viet Cong soldiers, and that the war in Cambodia is now a civil war between two groups in Cambodia, those supporting the Lon Nol government and those supporting the insurgents.

Nonetheless, despite greater numbers—the exact number is unknown owing to payroll padding by corrupt officers—and despite artillery, armored personnel carriers, light bombers and ample stores of other equipment provided by the United States, the Cambodian army is faltering, and would surely collapse without saturation bombing of villages and countryside by American B–52's. "American air power is necessary and indispensable," says the Chief of the Cambodian General Staff, Maj. Gen. Sosthene Fernandez. "Yes," he adds with emphasis, "you can say indispensable."

Being "realists," President Nixon and his proteges in Phnom Penh cannot be expected to trouble themselves about the human costs of their desperate strategy. Others of us, however, may find these worth nothing. An aged street vendor summed it up for an American reporter: "The bombers may kill some Communists, but they kill everyone else too."

That is something I hope the leadership and every Member of the Congress will consider as we decide what urgency we will attach to measures which could bring a halt to this incredible bombing in Cambodia.

I understand there is to be a delay of some 3 weeks before we vote in the Senate on the Case-Church amendment, which the Foreign Relations Committee has approved by a wide margin, and on the proposal to delete authority to transfer funds to continue the B–52 raids.

That delay cannot buy salvation for Lon Nol's wobbly government in Phnom Penh. It cannot make reality of the myth that the North Vietnamese have the power to terminate an indigenous Cambodian revolt. And more talks with Henry Kissinger cannot magically endow them with that power. All this bombing will do in 3 more weeks is inflict more torture on innocent people. It can only prolong their suffering, and destroy more of another tiny Southeast Asian country.

At long last, have we not had enough? Must we search still longer for enough compassion and decency to stop this madness? Must this Chamber, by doing nothing, be responsible for still more bloodshed?

Mr. President, I am greatly encouraged by the vote on yesterday in the Senate Committee on Appropriations of 24 to 0 in favor of terminating any further support to the aerial bombardment in Cambodia. A similar vote of the Democratic Caucus in the House of Representatives yesterday was most encouraging.

But no one knows how many civilians—or for that matter how many Communists—are being killed in Cambodia by American bombs. James Lowenstein and Richard Moose, staff assistants for the Symington Subcommittee on U.S. Security Agreements and Commitments Abroad, reported upon their return in mid-April from a trip to Cambodia that the U.S. Embassy in Phnom Penh validates all B–52 and F–111 strikes in central and western Cambodia, the area of combat with the Cambodian rebels. Under the procedure used, the Cambodian General Staff submits a request for an

air strike containing data about the nature of the target, and also a certification that friendly forces, villages, temples and pagodas are not within a specified distance of the target. Then the target and target area where the bombs will fall are plotted on large maps which are supposed to show the exact location of all houses and buildings—this, one assumes as a safeguard against the notorious sloppiness of Cambodian intelligence personnel. Significantly, Mr. Lowenstein and Mr. Moose report, however, that they "were told by the air attaché that the maps being used by the Embassy were several years old and that the Embassy did not have current photography on proposed target areas which would permit the identification of new or relocated villages." On the basis of such information—or misinformation—an Embassy bombing panel then decides upon targets and conveys its decisions to the Seventh Air Force Commander.

To escape the devastating effects of American bombing of their villages, refugees have been swarming into Phnom Penh. These refugees report that dozens of villages to the east and southeast of Phnom Penh have been destroyed and as many as half of their inhabitants killed or maimed by recent American bombing raids. International relief officials in charge of refugee camps in the capital estimate that nearly 10,000 people fled from their villages to the camps just since the intensified bombing raids began in early March. Many others have fled into Communist-occupied areas, which cover about 80 percent of the territory of Cambodia. A study mission of Senator KENNEDY's Judiciary Subcommittee on Refugees returned from Indochina in early April and reported that at least one-third of the population of Cambodia—some 2 million people—have been made refugees over the last 3 years; they crowd by the tens of thousands into shantytowns around Phnom Penh and provincial cities, neglected and ignored both by their own government and by the U.S. Missions in Phnom Penh.

To get some idea of what it means for one-third of the people of the little country of Cambodia to be driven out of their homes and villages by aerial bombardment and forced into the refugee centers, one would have to realize that, in terms that we can comprehend in the United States, that would be the equivalent of 75 million Americans driven out of their homes and forced into miserable refugee centers around our great cities. This is what is being accomplished by the costly, incredible, and, I think, stupid aerial bombardment now going on over Cambodia.

No one, as I have said, knows how many have been killed. A relief official offered an "educated guess" of at least 3,000 civilians killed in 3 weeks in March—but, he allowed, it could have been 10,000. As the Communist rebels have moved closer to Phnom Penh, so too have the B–52's, whose bomb explosions can be heard in the city all night, night after night. A young Cambodian woman in a refugee camp said that more than half of the 1,200 people in her village 25 miles from Phnom Penh—as well as about 50 Communist guerrillas—had been killed in a B–52 raid a few days before.

Another young woman told a reporter of nights of hiding in a deep bunker in a village 18 miles east of Phnom Penh, she said,

> When everything seemed to explode inside me and when the noise was so loud that I couldn't hear if I was screaming or not, I knew the Americans had come.

What kind of advertising is it for the United States if poor, simple people of this kind have such a picture of the United States and what it stands for around the world?

We have just recently completed hearings on the Voice of America program and the U.S. Information Service. I presided over those hearings. We are spending more than $700 million a year to posture the United States, so that people around the world will think favorably of our Nation.

No one denies the importance of that, but I would suggest that the reports of the aerial bombardments against one of the smallest countries in the world offset by many times over the efforts we make through the Voice of America to portray a favorable image of our own country.

Self-proclaimed realist that he is, believer in and practitioner of Bismarckian realpolitik, Mr. Nixon cannot be expected to dally with sentimentalities. Politics itself is "warfare," as he told us some years ago; we cannot cry too much about the inevitable casualties.

I think the politics themselves of this operation cannot possibly stand the light of critical examination. Let us therefore consider Mr. Nixon's Cambodian policy in terms of his own stern criterion of national interest, Cambodia representing, as the President said in a press conference in 1971, "the Nixon Doctrine in its purest form."

The essence of the Nixon Doctrine was expressed in the most salutary way in the President's 1973 inaugural:

> We shall do our share in defending peace and freedom in the world. But we shall expect others to do their share. The time has passed when America will make every other nation's conflict our own, or make every other nation's future our responsibility, or presume to tell the people of other nations how to manage their own affairs.

Mr. President, that was the President of the United States, speaking in his inaugural address; and I agree with the sentiments the President outlined in that passage.

The statement is based upon an unexceptionable premise—that the United States is responsible for its own interests, which is to say, for the security and welfare of the American people, and not for the interests of shaky, wobbly, unpopular transient regimes in remote and nonstrategic corners of the world. Our own interests surely do encompass a need for international cooperation in both politics and economics, and for the use and development of international institutions. They also encompass an ideological preference—though no more than a preference—for free and democratic institutions. Our interests most emphatically do not extend to the preservation of corrupt and moribund regimes such as that of Lon Nol in Cambodia, whose survival in power is even less important to us, if possible, than that of Mr. Thieu in South Vietnam.

With the breakdown of the cease-fire throughout Indochina, there is increasing credence to the proposition that Mr. Kissinger's whole peace agreement was based upon a profound misunderstanding. The Paris Accords are a model of imprecision, filled with clauses that can be interpreted—and now indeed are being interpreted—in radically divergent ways. I think this was no accident. Secretary of State Rogers confessed to the Senate in February that if the negotiators had tried to eliminate the ambiguities, we never would have had a cease-fire.

Quite obviously, the purpose of the high-flown ambiguities with which the Paris Accords are replete was not to spell out a detailed agreement but to cover the underlying disagreements about the future of South Vietnam and Indochina and, more important still, to prevent these basic disagreements from interfering with the central objective on which there was, or seemed to be, agreement—the disengagement of the United States from the war. Now that these disagreements have reemerged—rather sooner, to be sure, than one might have expected—Mr. Kissinger expresses, or affects, astonishment that the North Vietnamese are violating the Unconditional as the ambiguous parts of the Paris settlement.

Is it possible that the administration actually expected the rickety apparatus put together at Paris to work? Did they really think the warring Vietnamese factions would compose their irreconcilable difference through a contraction called the National Council of National Reconciliation and Concord? Did they think the Vietnamese insurgents would give up their quarter-century's campaign to take over South Vietnam and unify the country under their rule? Did they think the Vietcong and Hanoi would be content to enage in a political struggle through the organics devised at Paris while Mr. Thieu continued to press them militarily and made no secret of his own plans for subverting the Paris arrangements at every turn? Or did the administration suppose that the North Vietnamese would give up supplying their forces through the Ho Chi Minh trail, as specified by the Paris agreement, after the United States had used the interim between the breakdown of negotiations in October and the January agreement to flood South Vietnam with arsenals of weapons?

Mr. President, we know that weapons were shipped in from all over the South Pacific as fast as we could move them in, from the closing days of October up until the January agreement. I must confess I have never thought of Mr. Nixon as an exceptionally idealistic leader, but neither have I thought of him, or of Mr. Kissinger, as the kind of naive senti-

mentalists they would have to be to have expected the Vietnamese factions to carry out the Paris agreements with genuine good faith.

Authentic realists that they claim to be, the North Vietnamese may well have had a quite different conception of the meaning of the Paris agreement. To them it may never have been anything more than an elaborate facade for that "elegant bugout" of which Mr. Kissinger had once spoken with derision. And perhaps, too, in a spirit of Machiavellian kinship, they supposed that Mr. Kissinger actually had come to share this conception, requiring only that the "bugout" be "elegant" enough to satisfy President Nixon's requirement of "peace with honor."

The latter, in the eyes of Hanoi, may well have represented nothing more than a requirement for an orderly withdrawal, the return of our prisoners, and an elaborate facade of political machinery for Mr. Nixon's domestic public relations. The assumptions, to be sure, are cynical ones, but they seem plausible enough from Hanoi's standpoint and also from the standpoint of American interests. Recognizing that the United States has no security interest in Indochina, nothing at stake, that is, affecting the strength and welfare of the American Nation, the North Vietnamese quite naturally may have supposed that Mr. Nixon recognized this, too, and could therefore be bought off from his terror bombing with an arrangement that he could at least call "peace with honor."

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

Mr. McGOVERN. I yield.

Mr. KENNEDY. I just wanted to commend the Senator from South Dakota for making this statement here before the Senate this afternoon, and for drawing the attention of the Senate to the problem of the human tragedy in Cambodia as well as the policy tragedy.

I would like to join the Senator in expressing concern for the people who are really caught in the crossfire of our Cambodian policy, the civilians—not so much the troops, the government troops, the North Vietnamese, or the insurgent troops, whoever they might be—but it has been the civilians who are caught in the crossfire of this war, and they are the ones who are suffering most grievously.

I remember writing to the Secretary of Defense about a year ago on the question of the general bombing policy in the north, and in response I received a letter from which I shall read a short paragraph, and then ask unanimous consent that the entire letter be printed in the RECORD.

The Secretary stated:

> The correct rule of international law which has applied in the past and continues to apply to the conduct of our military operations in Southeast Asia is that "the loss of life and damage to property must not be out of proportion to the military advantage to be gained."

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

I. TEXT OF DEPARTMENT OF DEFENSE RESPONSE TO A MAY 3, 1972, LETTER FROM THE SUBCOMMITTEE CHAIRMAN

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, D.C., September 22, 1972.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Refugees, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: The Secretary of Defense has asked that I respond to your letter of 19 August 1972 pertaining to the Subcommittee on Refugees' inquiry into war-related civilian problems in Indochina.

The Rules of Engagement are highly sensitive documents which set the criteria and specify in detail the permissible offensive and defensive actions which U.S. forces may undertake under any given set of circumstances. They are very closely controlled because of their obvious and inestimable value to the enemy. To expose the rules governing the conduct of combat operations is to risk jeopardizing the lives of U.S. personnel charged with the responsibility for conducting those operations and would otherwise be detrimental to national security.

The President and the Secretary of Defense have repeatedly stated that our attacks upon North Vietnamese targets are and have been limited to military objectives. Any damage done to civilian areas adjacent to these targets is unintended and results not from any action on our part, but from the Government of North Vietnam's refusal to live in peace with her neighbors. A public listing of specific targets would permit the enemy to either move or better protect those targets and would result in the loss of American lives and make the destruction of these targets more difficult.

With regard to the allegations made by Mr. Clark and the enemy's strident assertions that we have a concerted and intentional campaign of bombing the dike system, the following appears appropriate. Several Congressional Committees including the Senate Foreign Relations Committee have been thoroughly briefed on this subject. The few dikes that have been hit are immediately adjacent to readily identified military-associated targets. The observable damage is minor and no major dike has been breached or functionally damaged. It further appears that even the minor collateral damage could be repaired in less than a week without the employment of machinery of any kind. The enemy has intentionally placed anti-aircraft sites, supply depots and essential lines of communication upon the dike system in an effort to immunize these military functions.

In fact, severe floods occurred last year in North Vietnam in the absence of bombing, whereas the high water season has now virtually passed without significant flooding.

Major General Pauly will accompany Ambassador Sullivan to the Subcommittee's hearing on 28 September 1972. If, at that time, the Committee wishes to inquire further and is prepared to go into executive session, General Pauly will be prepared to provide, on a classified basis, additional information.

In earlier inquiries, you had requested a complete glossary of terms which have been used officially and unofficially to describe American or American-supported military activities in Indochina. In response to your request, you were provided with a copy of MACV Directive 525–13, "Rules of Engagement for the Employment of Fire Power in the Republic of Vietnam." To the best of our knowledge, this contains a complete glossary of terms which are used officially. As to unofficial terms, we have never compiled, or attempted to compile, a listing of Southeast Asia lexicon. If you would care to submit a listing of such unofficial terms in which you are interested, we will be glad to provide you with an opinion, to the extent we can obtain adequate information upon which to base an opinion, to the prevalent usage of such terms.

With respect to your request for a copy of the full text of the "Report of the Department of Army Review of the Preliminary Investigation into the My Lai Incident", commonly referred to as the "Peers Report", I would again suggest that this is an investigative report not subject to the requirements for public disclosure under the Freedom of Information Act. As you may be aware, the demand for disclosure of the so-called Peers Report was litigated in the case of *Aspin* v. *The Department of Defense, et al.*, Civil Action No. 632–72, U.S. District Court for the District of Columbia. The court ruled that this report was not subject to the requirement for public disclosure.

We have previously provided you with statistics on U.S. military air operations in Southeast Asia, as will appear from the charts to which you were previously referred, which appear at pages 9069 *et seq.* of the hearings of the Armed Services Committee of the House of Representatives on H. Res. 918 held on April 18, 1972. The latest available update of this releasable material is as follows:

Allied air munitions expenditures in Southeast Asia are released on a monthly basis. Compilation time results in lag time of approximately 15 days following end of month. Preliminary figures are usually available by the 15th of each month.

Annual tonnage figures since 1966

1966	496,319
1967	932,119
1968	1,437,370
1969	1,387,259
1970	977,446

MONTHLY TONNAGES

	1971	1972
January	70,792	56,790
February	66,510	67,536
March	92,191	70,694
April	85,000	91,670
May	76,463	105,729
June	60,863	112,460
July	49,196	99,066
August	51,171	98,182
September	51,177	
October	47,315	
November	50,644	
December	61,838	

U.S. Strike Sorties in South Vietnam are released daily by the U.S. Military Assistance Command Vietnam in its daily press communique. These same communiques are made available to the press corps by the DoD in Washington. Audited U.S. strike sortie figures in South Vietnam are also available for public release on a monthly basis.

Since the resumption of bombing over North Vietnam in early April in response to the North Vietnamese invasion of the RNV, MACV is also reporting approximate strike sortie figures over North Vietnam in in its daily press communiques.

U.S. AIR STRIKE SORTIES FOR 1972

	Republic of Vietnam	North Vietnam
January	416	
February	1,856	
March	1,088	
April	12,267	[1] 1,550
May	14,855	[1] 7,650
June	11,764	[1] 10,380
July	11,528	[1] 8,195
August		[1] 7,225

[1] Approximate.

As I am sure you are aware, the Department of Defense has no personnel on the ground in the combat areas in Laos, Cambodia or North Vietnam and, consequently, has no reliable basis to make estimates of the casualties of the conflict. As we have previously reported, our attacks upon enemy targets are and have been limited to military objectives. Any damage done to civilian areas adjacent to these targets are unintended.

The Department of Defense, represented in this opinion by the Offices of General Counsel, and the Judge Advocates General of the Army, Navy and Air Force, does not accept the resolutions adopted by the Institut de Droit International at its Session in Edinburgh, 1969, as an accurate statement of international law relating to armed conflict.

The law between States applicable to armed conflict reflects the willingness of States to accept legal restraints on their conduct or the weapons to be used in such conflicts. A substantial body of the laws of armed conflict is to be found in the widely accepted Hague Conventions of 1907 and the Geneva Conventions of 1949, and in customary international law (i.e. rules that are accepted as law in the practices of States in armed conflict). Particular emphasis for present purposes must be accorded the Annex to Hague Convention #IV of 1907, referred to as the Regulations Respecting the Laws and Customs of War on Land.

A summary of the laws of armed conflict, in the broadest terms, reveals certain general principles including the following:

(a) That the right of the parties to a conflict to adopt means of injuring the enemy is not unlimited;

(b) That it is prohibited to launch attacks against the civilian population as such; and

(c) That a distinction must be made at all times between persons taking part in the hostilities and members of the civilian population to the effect that the civilians be spared as much as possible.

These general principles were recognized in a resolution unanimously adopted by the United Nations General Assembly in its Resolution dated 13 January 1969 (Resolution 2444 (XXIII)). We regard them as declaratory of existing customary international law.

The principle in (a) restates the humanitarian principle codified in Article 22 of the Hague Regulations. The principle in (b) is to be found in the universally accepted customary international law of armed conflict to the effect that attacking forces are to refrain from making civilians as such the object of armed attack. They are not, however, restrained from attacking military targets necessary to attain a military objective even though there is a risk of incidental casualties or damage to civilian objects or property situated in the vicinity of a legitimate military target.

The principle in (c) addresses primarily the Party exercising control over members of the civilian population. This principle recognizes the interdependence of the civilian community with the overall war effort of a modern society. But its application enjoins the party controlling the population to use its best efforts to distinguish or separate its military forces and war making activities from members of the civilian population to the maximum extent feasible so that civilian casualties and damage to civilian objects, incidental to attacks on military objectives, will be minimized as much as possible.

In the application of the laws of war, it is important that there be a general understanding in the world community as to what shall be legitimate military objectives which may be attacked by air bombardment under the limitations imposed by treaty or by customary international law. Attempts to limit the effects of attacks in an unrealistic manner, by definition or otherwise, solely to the essential war making potential of enemy States have not been successful. For example, such attempts as the 1923 Hague Rules of Air Warfare, proposed by an International Commission of Jurists, and the 1956 ICRC *Draft Rules for the Limitation of the Dangers Incurred by the Civilian Population in Time of War* were not accepted by States and therefore do not reflect the laws of war either as customary international law or as adopted by treaty.

However, by way of acceptable analogy, reference can be made of the Hague Convention #IX of 1907 concerning Bombardment by Naval Forces in Time of War. Articles 1 and 2 of that Treaty would, *prima facie*, be applicable to air warfare as well as to naval bombardment, providing, in part, that bombardment of "undefended ports, towns, villages, dwellings, or buildings is forbidden," but that:

"Military works, military or naval establishments, depots of arms or war materiel, workshops, or plant which could be utilized for the needs of the hostile fleet or army, and the ships of war in the harbor are not, however, included in this prohibition," and the commander of an attacking force "incurs no responsibility for any unavoidable damage which may be caused by a bombardment under such circumstances."

An additional example of a customary rule of international law, applicable by analogy to air warfare, appears in Article 8 of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of May 14, 1954. Under that Article the Contracting Parties recognize that points vulnerable to armed attack in the event of armed conflict include "any large industrial center or . . . any important military objective constituting a vulnerable point, such as, for example, an aerodrome, broadcasting station, establishment engaged upon work of national defense, a port or railway station of relative importance or a main line of communication."

The test applicable from the customary international law, restated in the Hague Cultural Property Convention, is that the war making potential of such facilities to a party to the conflict may outweigh their importance to the civilian economy and deny them immunity from attack.

Turning to the deficiences in the Resolutions of the Institut de Droit International, and with the foregoing in view, it cannot be said that Paragraph 2 which refers to legal restraints that there must be an "immediate" military advantage, reflects the law of armed conflict that has been adopted in the practices of States. Moreover, the purported legal restraints in paragraphs 7 and 8 on weapons *per se* and on the use of weapons do not accurately reflect the existing laws of armed conflict nor can they find support in the practices of States from which that law might be said to be emerging.

The existing laws of armed conflict do not prohibit the use of weapons whose destructive force cannot be limited to a specific military objective. The use of such weapons is not prescribed when their use is necessarily required against a military target of sufficient importance to outweigh inevitable, but regrettable, incidental casualties to civilians and destruction of civilian objects.

The major preambular paragraph of the Resolution proclaiming that recourse to force is prohibited in international relations is incorrect, and is inconsistent with the United Nations Charter as well.

As in other branches of international law, the law applicable to armed conflict develops only to the extent that Governments are willing to accept new binding restraints. In the search for such a consensus which is now in progress by the International Committee of the Red Cross as well as by the United Nations, resolutions such as those of the Institute of International Law form a valuable basis for discussion and consideration. But as indicated here, it cannot be said that all of the provisions of these resolutions reflect the practice of States under the belief that international law demands such practice.

These, like many similar statements, ignore the variable factors of military necessity. Real protection of civilians and the civilian population in time of armed conflict will come from realistic restraints, widely accepted and practiced by the world community, reflecting in their information informed analyses of military and political strategies, tactics and technology.

With reference to your inquiry concerning the rules of engagement governing American military activity in Indochina, you are advised that rules of engagement are directives issued by competent military authority which delineate the circumstances and limitations under which United States Forces will initiate and/or continue combat engagement with the enemy.

These rules are the subject of constant review and command emphasis. They are changed from time to time to conform to changing situations and the demands of military necessity. One critical and unchanging factor is their conformity to existing international law as reflected in the Hague Conventions of 1907 and the Geneva Conventions of 1949, as well as with the principles of customary international law of which UNGA Resolution 2444 (XXIII) is deemed to be correct restatement.

The draft proposals prepared by the International Committee of the Red Cross were submitted for consideration and are presently being considered in the ongoing process of debate, discussion and conference which has taken place in two major conferences of governmental legal experts in Geneva in 1971 and 1972 and by a separate panel of independent experts in 1970. The positions of the United States delegations to these conferences take into account the position of other governments as they are presented.

The fragmentary information relayed through you by Mr. Clark from the North Vietnamese purporting to identify locations where collateral damage is alleged to have been done to other than military targets is generally too vague and imprecise to facilitate a meaningful search of records of air operations in North Vietnam. For example, the "map" provided by the North Vietnamese through Mr. Clark to you is in fact no more than a free-hand sketch, with the alleged damage areas shown by splotches measuring about 10 kilometers across. It is indicated in the letter from Mr. Clark to you, we note, that he has provided to you so far only partial data in his possession. Under these circumstances, particularly in view of the patently propagandistic character of the allegations by the North Vietnamese with reference to bombing of dikes, as noted above, it would appear to serve no useful purpose on the basis of such fragmentary data to further pursue an extended study of photography, which for military security reasons, would mostly not be releasable to the public even if identified.

I would like to reiterate that it is recognized by all states that they may not lawfully use their weapons against civilian population or civilians as such, but there is no rule of international law that restrains them from using weapons against enemy armed forces or military targets. The correct rule of international law which has applied in the past and continued to apply to the conduct of our military operations in Southeast Asia is that "the loss of life and damage to property must not be out of proportion to the military advantage to be gained." A review of the operating authorities and rules of engagements for all of our forces in Southeast Asia, in air as well as ground and sea operations, by my office reveals that not only are such operations in conformity

with this basic rule, but that in addition, extensive constraints are imposed to avoid if at all possible the infliction of casualties on noncombatants and the destruction of property other than that related to the military operations in carrying out military objectives.

Sincerely,

J. FRED BUZHARDT.

II. TEXT OF CHAIRMAN'S LETTER TO SECRETARY OF DEFENSE MELVIN R. LAIRD

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., May 3, 1972.

Hon. MELVIN R. LAIRD,
Secretary of Defense, Department of Defense, Washington, D.C.

DEAR MR. SECRETARY: I appreciate receiving the Department of Defense's response of November 8, 1971, to my letter of May 10, 1971. However, the Department's response, by Mr. J. Fred Buzhardt, General Counsel, neglects several items raised in my letter. I suggested in this letter, that, as responses are prepared to individual items, they be forwarded to my office. Because nothing has been received since early November, and in the light of the growing Congressional and public concern over the kinds of items raised in my letter, I am writing to you again, and would appreciate the Department's comments on the items below.

1. The Judiciary Subcommittee on Refugees again requests a complete glossary of terms which have been used, officially and unofficially, to describe various American or American-supported military activities in Indochina. Although it was helpful to receive a copy of MACV Directive 525–13, "Rules of Engagement for the Employment of Firepower in the Republic of Vietnam", the glossary of terms contained therein was minimal. Moreover, Mr. Buzhardt's letter failed to comment on the projected impact upon civilians of the military activities associated with those terms.

2. I would also like to request again, for use by the Subcommittee, a copy of the full text of the "Report of the Department of Army Review of the Preliminary Investigation into the My Lai Incident", commonly referred to as the Peers report.

3. The intensity and the impact on the civilian population of the American-sponsored air war over all of Indochina has evoked much public controversy and concern. The recently increased bombing, especially, raises again the kinds of questions I included in my letter of May 10. What is the history of the air war over Indochina, as measured by annual bomb tonnages and the annual number of aircraft sorties over each of the countries in the area, including North Vietnam? In separate calculations for northern and southern Laos, and for North Vietnam, what is the monthly rate of sorties, identified by the kinds of aircraft employed, since January 1968? What is the monthly tonnage of ordnance for each area, and over the same period of time? How would the Department characterize the kinds of ordnance used? And what are the Department's estimates of civilian casualties, resulting from aerial bombardments, for each country in Indochina? The Subcommittee is particularly interested in available estimates on war damage to the civilian population in North Vietnam.

4. At a hearing on May 7, 1970, the exchange below took place. In the absence of a satisfactory response at that time, or since then, it would be helpful to receive the Department's full comment now, but in the context of all of Indochina and of developments throughout the area subsequent to May 7, 1970. In this connection, my reference to "confidential materials" obviously applies only to open sessions of the Subcommittee, such as those in which Mr. Doolin has participated.

Mr. DOOLIN. In terms of our air attacks, Senator, I believe my statement is as far as I can go in open session; it accurately reflects the operating authorities. As I indicated, all air strikes, except some, are validated by the Ambassador to Laos and to my knowledge maximum care is taken to avoid the causing of civilian casualties. . . .

Senator KENNEDY. Well, are these limitations really any different from Vietnam. . . .

Mr. DOOLIN. I can only say on the basis of the information available, the maximum care is taken to avoid civilian casualties wherever possible.

Senator KENNEDY. I'm sure maximum care is taken. I want to know what the results are.

Now, you must know from aerial photography how many villages have actually been destroyed—what the size was of villages where you take pictures one day and then again the next day; you can tell where buildings were, whether they are up or down; and you can make some estimation as to whether there had been people in the village or not. Have you done any kind of work like this?

Mr. DOOLIN. Mr. Chairman, there is some information available and I will be pleased to prepare a report on the subject and submit it to you and correlate it with the rules of engagement which I will go into in much more detail either in executive session or private correspondence.

Senator KENNEDY. I don't think any of us are looking for confidential materials here. I think we are trying to find out whether there are procedures used in bombings, and whether you follow those procedures to the best of your ability. We are interested in what the results of these procedures are in terms of civilian casualties and the creation of refugees.

Mr. DOOLIN. Well, as I indicated in my statement, Mr. Chairman, the air activities are with the approval of the Forward Air Guides. These men are Laotian, English-speaking; they avoid towns and these strikes are validated by the U.S. Embassy in Vientiane.

Senator KENNEDY. That, of course——

Mr. DOOLIN. They might put them as close to the scene as possible.

Senator KENNEDY. Well, now I'm interested in the performance chart as well as what the procedure chart shows. I'm sure we have outlined carefully prescribed procedures to avoid the creation of civilian casualties and refugees. But I'd be interested in what the results of those procedures have been as seen from aerial photography and from other kinds of intelligence activities you have access to and whether you are sufficiently concerned about these problems that you are taking these precautions.

Mr. DOOLIN. I'll see if I can provide that to you, Senator.

5. There are currently in existence manuals on rules of land warfare and on rules of naval warfare. What is the status of proposals on a similar manual relating to the rules of air warfare? Also, what program of instruction pertaining to the protection of civilians in air warfare is currently in use at the Air Force Academy? Does the Department accept the statement of the Institute of International Law on the nature of military targets (resolutions at Edinburgh, 1969) as an accurate restatement of international law? Does the Department accept the "Rules for the Limitation of the Dangers Incurred by the Civilian Population in Time of War"—prepared by the International Committee of the Red Cross (ICRC)—as acceptable standards for the protection of such populations, and, if not, are there specific changes the Department would suggest? Are the classified rules of engagement governing American military activities in Indochina fully compatible with the general rules established by the ICRC and the general standards set by the Institute of International Law? And what is the Department's attitude toward the draft protocol on aerial bombardment and other matters which was submitted on May 3, by the International Committee of the Red Cross, to the Geneva Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts?

6. Finally, on the basis of the Subcommittee's hearings and study over recent years, on April 29, 1971, I recommended that the President create a permanent Military Practices Review Board to advise the Joint Chiefs of Staff on standards and procedures designed to keep American military policies and practices within the bounds of simple humanitarian and international legal obligations, and to monitor the implementing of the rules of engagement governing American armed forces in active combat. I further recommended that the Review Board be appointed by the President at an early date in consultation with the appropriate committees of the Congress; that it be composed of high level officials in government as well as recognized non-governmental experts on humanitarian problems and international law; and that it be attached to the National Security Council. The recommendation has generated much positive response among persons in government and elsewhere, and, again, I would appreciate very much learning the Department's views on this matter.

In conclusion, let me say once again that I fully appreciate the lengthy nature of these inquiries. But, in view of the widespread Congressional and public interest in the issues raised by these inquiries, I strongly feel that meaningful responses will contribute to greater understanding and will be beneficial to all concerned. I am extremely hopeful that it will be possible to include a good deal of the responses in the public record. I would also like to suggest that, as responses are prepared to individual items, they be forwarded to my office.

Many thanks for your consideration.

Sincerely,

EDWARD M. KENNEDY.

Mr. KENNEDY. He gave this as the expressed attitude of the Defense Department; and when we realize that in Cambodia alone 45 percent of the hospitals have been destroyed, that some $2 billion of war damage to civilian institutions has occurred, that of the 6.5 million people who live in Cambodia more than 3 million have been made homeless, and that there are tens of thousands of civilian deaths and hundreds of thousands of civilian war casualties, I am just wondering, given the impact on the civilians, whether the Senator, as one who has served in the Air Force of our country in the last war, and who knows first hand about the impact of the bombing, how he feels? Given the kind of human loss, the number of civilian casualties, and the number of refugees created our policy, even the stated administration policy, which I feel is perhaps a reasonable statement of international law, "that the loss of life and property must not be out of proportion to the military advantage gained"— given the loss of life, the suffering, and the damage to property, does the Senator believe the military advantage to be gained outweighs that loss? And I wonder how the Senator thinks that our interests are really being advanced by this bombing policy.

Mr. McGOVERN. The question the Senator from Massachusetts asks makes the point, that even if one divorces the human factor in the incredible suffering

and destruction we are meting out to the civilian population of Cambodia and consider that only from the military standpoint, it is impossible to see any justification for it, especially the B–52 raids.

Recently, I had a long conversation with one of the people in the administration who is resigning because of his disgust over this policy. He has had some responsibility for keeping in close touch with it. He said that we have evidence the enemy insurgents in Cambodia know about the B–52 strikes before they take place. It is information that comes from the Cambodian general staff when they request an air strike, and where the requirement that there be some precaution taken in the strikes does have the effect of providing leaks.

Almost invariably, the military forces on the other side, who are supposed to be interdicted, get out of the road. All they have to do is to move into another quadrant. The B–52's come in and do their bombing over a certain quadrant, but the insurgent forces are gone long before they get there. Any military personnel are out of that area. What are left are the innocent civilians who do not have that information in time, so that their homes are destroyed, their rice paddies disrupted—and this is an area where a tremendous amount of rice is grown, so that supplies of rice become deficient.

As the Senator's Subcommittee on Refugees has demonstrated, we have driven well over a third of the people out of their homes to get away from the bombing. I cannot conceive of any military advantage with that kind of terrible destruction of people whom we are supposedly trying to help.

Mr. KENNEDY. Ambassador Hummel appeared before our Refugee Subcommittee recently and indicated to us that he could not foresee in the immediate future any cessation or halting of the bombing. He felt it was because of a violation of the truce agreement with the South and that we should expect that there will be continued bombing by the United States.

I remember asking him whether he thought, if there were other violations, and if we used his reasoning, that might not it mean that we could begin bombing in the North again, with all the implications of that—the probable loss of American planes, the loss of American pilots, and the possibility of new prisoners of war. He refused, during that exchange, to give absolute assurance that this might not take place in the North.

I am wondering whether the Senator from South Dakota believes that the American people really understand the danger as much as they should, that there really is, at least within the administration, of an open attitude toward perhaps losing additional planes and additional American flyers and additional American prisoners of war. Does not the Senator from South Dakota also agree with me that most Americans feel that that phase of the war has passed and they do not look at the Cambodian involvement as risking that danger? Does not the Senator from South Dakota also agree with me, further, that that danger is ever present, one which all Americans should be very much aware of?

Mr. McGOVERN. I certainly do. It is impossible to say what the state of American knowledge or opinion is on this subject. I am sure in my mind that the American people do not want us to become reinvolved in conflict with North Vietnam. I am convinced that if they understood all the implications going on in Cambodia today, they would be horrified as to what is being done in the name of the United States. That attitude, I believe, has even seized the Congress, as evidenced by the vote in the Appropriations Committee yesterday.

It is very important that without any undue delay, we move to put some restrictions on the administration so that we do not have to take steps that could reinvolve us in another major war in Indochina.

If American planes are shot down over Cambodia, or we renew the bombing of North Vietnam and our planes are shot down, as they inevitably would be, then we have the same old dilemma again, that of American prisoners of war being taken, and the argument being made again by our policymakers that we cannot ease off our bombing until we achieve the release of our prisoners of war, as happened several months ago.

So the Senator's concern is well taken and I hope it will not be lost on our policymakers downtown.

Mr. KENNEDY. I want to thank the Senator from South Dakota very much for his statement.

If we use the rationale and the reasoning of the administration as they justify their continued bombing of Cambodia, it would appear that their only real justification for it is, because they fear the possibility of a government coming to power in Cambodia which might not be sympathetic or friendly to the United States. If we use that as a test or a criterion, I suppose we could be bombing parts of the Philippines where the insurgents there have made statements in opposition to American Government policy, or we could be involved in bombing any number of places that I can think of in Southeast Asia.

If that is going to be the criterion by which we will define the presence of our American fighting forces, does not the Senator from South Dakota feel troubled by that apparent open-endedness in terms of the attitude and policy of the administration?

Mr. McGOVERN. I am troubled by it.

The PRESIDING OFFICER (Mr. HUDDLESTON). The 30 minutes time of the Senator from South Dakota have expired.

Mr. KENNEDY. Mr. President, I ask unanimous consent that we may have an additional 10 minutes, or 15 minutes.

The PRESIDING OFFICER. If the Senator from Massachusetts desires to be recognized, he is entitled to 30 minutes which he can yield to the Senator from South Dakota.

Mr. KENNEDY. Mr. President, I desire to be recognized.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I ask unanimous consent that I may be recognized for 30 minutes and that my time be yielded to the Senator from South Dakota.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator has that right.

The Senator from South Dakota is recognized.

Mr. McGOVERN. I thank the Senator from Massachusetts.

To respond to his inquiry, one of the things that has troubled me is the inability of the administration to state a clear and legal justification for what we are doing in Cambodia. I thought that justification had been stated for the bombing of North Vietnam, but at least there were certain arguments that had a kind of hazy logic about them. There was the argument that our prisoners were being held by North Vietnam and that we had to keep the pressure on until they were released.

There was the argument that we had to protect American forces on the ground in South Vietnam by attempting to bomb the movement of men from the north. For a while, there was the argument that the Gulf of Tonkin resolution had provided legal justification, or that the SEATO Treaty had provided justification.

None of those things are present in the bombing of Cambodia today. We have repealed the Gulf of Tonkin resolution, as the Senator knows. That justification has gone.

The Cambodian Government has specifically repudiated the SEATO agreement and said it has no validity so far as they are concerned. So that justification is not there. There are no American prisoners of war that we are attempting to release from Cambodia, and no American forces on the ground in South Vietnam that we claim to be protecting.

When we interrogated Secretary Rogers and Mr. Richardson before the Committee on Foreign Relations as to what was the rationalization or the legal ground on which we are carrying on the bombing in Cambodia, they came up with the flimsiest kind of argument that under the treatymaking power of the Constitution, since we have an agreement with North Vietnam, that also gave us the power to retaliate if they do not keep to such a treaty. Yet in another moment they tell us that there is no treaty. If there was one, it would have to be submitted to the Senate for ratification, as the Senator knows. They talked about an informal agreement rather than a treaty. So that shot down their own arguments when they contended that we are bombing in Cambodia in order to enforce a treaty which, they say, in the next breath, we never made with North Vietnam.

I have yet to see any logical, consistent, or compelling legal or constitutional justification for the bombing that is going on in Cambodia.

I believe that the thrust of the Senator's question is well placed, that it is a very dangerous gamble we are carrying on there, which could involve us in major military operations.

Mr. KENNEDY. Again, I want to thank the distinguished Senator from South

Dakota and commend him on his statement.

Mr. McGOVERN. I thank the Senator from Massachusetts for his contribution.

The valid purpose of the Paris accords, as Mr. Kissinger himself has acknowledged, was to end American involvement in Southeast Asia. That objective—which is all that our interests require or ever have required—has been achieved to the extent that our troops have been withdrawn and our prisoners repatriated. Beyond that it simply does not matter very much, from the standpoint of American interests, how the peoples of Indochina work out—or fight out—their unresolved differences. The crucial question now is whether President Nixon recognizes these facts and, more particularly, whether he is prepared to make the extremely important distinction between the national interest of the United States and his own personal stake in the unwieldy deal struck at the peace conference.

The President's Cambodian policy suggests that he is not prepared to make that distinction. It suggests that he has objectives which exceed the security requirements of the American people, for which he is willing to risk a general American reentry into the Indochina war, as the Senator from Massachusetts has just said, and is already risking the creation of more American prisoners by the aerial bombardment now going on. In this connection, I think it pertinent to point out that I have no objection to appropriate responses to Hanoi's cease-fire violations such as the suspension of talks on reconstruction assistance. I think it is foolish for us to be talking about rebuilding North Vietnam while we are in the middle of demolishing Cambodia. There is not much chance, in any case, of Congress approving bilateral aid for North Vietnam, and in the circumstances of a general crumbling of the Paris agreement, the whole idea takes on a growing aura of unreality. I do not see much merit, or much realism, in the Nixon-Kissinger notion of aid to North Vietnam as an "investment in peace"—which seems to be a fancy way of suggesting that the North Vietnamese can be bought off with a few billion dollars from their long-term design for the unification of the two Vietnams.

The saturation bombing of Cambodia is a matter that requires our urgent attention. It is not only cruel and inhuman but, more important in the framework of this administration's values, it is stupid and unrealistic, threatening to shatter the fragile cease-fire and, with it, what remains of the President's prestige at home. Is Mr. Nixon's pride once again on the line? Are we to be treated to more petulance about "respect" for the office of President, and about "pitiful, helpless giants?" The President has a well-known penchant for bold action in time of crisis, and is said to take pride in a reputation for unpredictability. These attributes may be useful for certain purposes of statesmanship, but they are not useful when reasons of state are confused with personal pride and anger. It is one thing to act boldly in the national interest; it is quite something else for a leader to strike out wrecklessly to show an adversary how tough and relentless he is, to keep from being gotten the better of—as if world politics were a contest of politicians and their pride rather than of nations and their interests.

The "Nixon Doctrine" notwithstanding, the United States is being drawn steadily deeper into the Cambodian morass as the strength of the insurgents grows and the Government's forces deteriorate. The issue in any case, as Secretary of State Rogers acknowledged in his statement to the Foreign Relations Committee on April 30, has more to do with South Vietnam than with Cambodia itself. If the port of Sihanoukville—renamed Kompong Som—should be reopened to supply the North Vietnamese and the Vietcong in South Vietnam, still more if the Cambodian rebels should defeat the Phom Penh government, the South Vietnamese army would be put at a considerable disadvantage in the continuing Vietnamese civil war. Ultimately, it would seem to be Mr. Thieu and his Saigon regime whose future is at stake in Cambodia—although Secretary Rogers prefers to speak in euphemisms about "the right of self-determination of the South Vietnamese people." Even if Mr. Nixon were prepared to part with his feeble client in Phnom Penh—and that is not entirely clear—he remains quite evidently committed to his more vigorous client in Saigon.

Hence the morass. As long as we remain committed to the present Saigon regime, we are drawn toward involvement in Cambodia—there are no frontiers in the swamp. One either extricates oneself—as was thought to have been done at Paris—or one slides back in. Except for its own unfortunate inhabitants, Cambodia is a sideshow. The significance of the deepening American involvement is that it shows that the Nixon administration has yet to bite the bullet on Vietnam; it is still committed to the victory of one faction over the other in the Vietnamese civil conflict.

It is drawn, therefore, to the cause of Lon Nol, the ailing, partly paralyzed, deeply superstitious man who purports to rule Cambodia. It may not be called a "commitment"—the law, in case anyone cares, prohibits it. The Church-Cooper amendment of 1970 forbidding the use of American ground troops in Cambodia contains an additional clause—more in the nature of a forlorn hope—specifying that military and economic assistance to Cambodia "shall not be construed as a commitment by the United States to Cambodia for its defense." So much then for the law. With this apparently in mind, the State Department came up with the artful notion that U.S. air strikes in Cambodia were not indeed a "commitment" to that country but rather a "meaningful interim action" to compel compliance with the Vietnam peace agreement. Something closer to the reality of our involvement with Cambodia was expressed in President Nixon's message to Lon Nol after the bombing attack on his palace in March. Expressing his admiration for "the Khmer people's courage and steadfastness under your leadership," Mr. Nixon went on to "reaffirm assurances of our continued support."

Even in a land much given to mysticism like Cambodia, the head of state, President Lon Nol, qualifies as uncommonly superstitious and eccentric. He is reported to believe deeply in demons and spirits and in omens provided by his soothsayers. In addition, since a massive stroke in 1971, the Cambodian leader has suffered partial paralysis. While his country is consumed by war, and while disasters accumulate, he is reported to perceive himself as a god-king commissioned by heaven to revive the ancient glory of the Khmer kingdom.

While the head of state muses on his destiny, the government sinks deeper in political intrigue and corruption, and until his forced departure from the country on April 30, effective power was accumulating in the hands of the President's aggressive "little brother"—as he is known—Brig. Gen. Lon Non. After the recent bombing of the presidential palace General Lon Non seized the occasion to break a schoolteachers' strike, close down all the nongovernment newspapers, round up more than one hundred leading political figures and intellectuals, and place under house arrest Lt. Gen. Sirik Matak, his brother's collaborator in the coup which ousted Sihanouk in 1970 and one of the few competent administrators in the country.

At the battle front, now in the outskirts of Phnom Penh itself, Lon Nol's generals, according to informed Western observers, engage in a lucrative commerce with the enemy. Some generals are said to sell even their American-supplied ammunition to the Communists, as well as such essentials as rice and fuel. The most notorious scandal is that of the so-called "phantom troops." No one knew the exact size of the Cambodian army, because the soldiers are supposed to be paid through unit commanders, many of whom are enriching themselves—with American money—by padding their rosters with the names of nonexistent soldiers. Unwilling to conduct a head count, the government has chosen instead to deal with this and other scandals by closing down the newspapers which were exposing them. Many real soldiers have in fact gone unpaid, and thereupon taken to looting and robbing peasants. "Much of the army," says an observer, "is no longer fighting. It is too busy stealing chickens. It has to, for otherwise it would starve."

Such is the estate of President Nixon's latest client, the country which is supposed to represent "the Nixon Doctrine in its purest form." Appalled by the shortcomings of the regime, but unwilling to implement President Nixon's inaugural pledge that "the time has passed when America will make every other nation's conflict our own," American officials have undertaken to bring about "reforms" in the Cambodian Government. They have prevailed upon Lon Nol to recast his government by forming a "High Political Council" composed of himself, Gen. Sirik Matak, and two of the other collaborators in the 1970 coup, in Tam and Cheng Heng. Best of all, from the standpoint of American Embassy officials, "little

brother" Lon Non has been packed off on a long, vaguely defined mission to France and the United States.

The new regime—if there is a new regime—is said to be committed to a negotiated settlement with the insurgents. Sirik Matak has said that would be his objective. Perhaps, with the help of Mr. Nixon's B–52's, they will prevail upon the divided Khmer Rouge factions to sign a paper truce similar to the ones in Vietnam and Laos. One hopes that it will come and come soon, but it is far from a certainty. Meanwhile, for the sake of pride, President Nixon continues this war for which he has no legal authority and in which the United States has no legitimate stake. One prays that President Nixon will not fail in this latest, and most gratuitous, of his military gambles. The issue at the moment is in limbo. In his recent "state of the world" report, Mr. Nixon warned ominously that "the coals of war still glow in Vietnam and Laos, and a cease-fire remains elusive in Cambodia," and the President also warned Hanoi of "revived confrontation with us." Mr. Kissinger now says that matters have improved in Cambodia since the report was prepared and that, as a result, "We are not too pessimistic that over a period of weeks, maybe months, some cease-fire negotiations could start." Although Mr. Kissinger suggested no substantive grounds for his relative optimism, we must hope that it is well founded. If the President miscalculates, America may find itself again at war throughout Indochina, with all that that would bring in the way of death and devastation to the peoples of those lands, and division and dismay to the American people. "The flame of the Indochina war has been turned down," a Cambodian official said recently, "but the pilot light is still burning brightly in Cambodia. It is just a question of time before our war reignites the whole thing."

II. AN ILLEGAL WAR

There is a "zone of twilight," as Justice Jackson said, between the clearly defined powers of Congress and those of the President. Armed with a bagful of sophistries and rationalizations, President Nixon has carried the current air war in Cambodia beyond the "zone of twilight" into the outer reaches of legal darkness. Without a shred of constitutional authority on which to base the current bombing campaign, the administration tried at first to get by with supercilious evasions of the question, such as Assistant Secretary—and Ambassador designate—Sullivan's recent statement that "two lawyers" in the State Department were working on a new constitutional justification for the bombing of Cambodia. Meanwhile, of course, the bombing was continuing, since there could be no doubt of the Department's ability to cook up something. "For now," Mr. Sullivan added with a twinkle, "I'd just say the justification is the reelection of President Nixon."

Proceeding on similarly elevated jurisprudential grounds, Secretary of Defense—and Attorney General-designate—Richardson then attempted to explain away the annoying reminders in Congress and the press of President Nixon's own previous—and, I might add, spurious—claim of authority for his military actions in Cambodia. When President Nixon sent American troops into Cambodia on April 30, 1970, he said that their mission was "to protect our men who are in Vietnam and to guarantee the continued success of our withdrawal and Vietnamization programs." And when American forces were withdrawn from Cambodia, the President said, on June 3, 1970:

> The only remaining American activity in Cambodia after July 1 will be air missions to interdict the movement of enemy troops and material where I find this is necessary to protect the lives and security of our forces in South Vietnam.

Now that the troops are out of Vietnam, Mr. Richardson maintains that the President still has constitutional authority to bomb Cambodia because he is merely trying to clean up a "lingering corner of the war."

Despite his credentials as a distinguished lawyer, Mr. Richardson has been quite unable to come up with any provision of the Constitution authorizing the President to clean up "lingering corners of wars"—especially wars which were never authorized by Congress in the first place. The "main point," Mr. Richardson told newsmen recently, "is simply that a cease-fire has not been achieved in Cambodia."

He continued:

> So what we are doing in Cambodia is continuing to support our ally there against the continuing efforts to disrupt communications, to isolate Phnom Penh. We are engaged in air strikes only at the request of the Cambodian government.

The reference to Cambodia as an "ally" is significant, raising the question of what it takes to make an "ally." One might have supposed that it took a treaty of alliance ratified by the Senate, but Cambodia, as we know, is in no such relationship to the United States. Although in 1954 Cambodia was designated a "protocol" state entitled to protection under the SEATO Treaty, the Cambodian Government has repeatedly and categorically refused the protection of SEATO, and on May 30, 1970, Mr. Richardson himself, as Acting Secretary of State, wrote to the Foreign Relations Committee:

> The SEATO treaty has no application to to the current situation in Cambodia.

Also pertinent to Mr. Richardson's notion of Cambodia as an ally is the Javits amendment to the Church-Cooper amendment of 1970, which specifies that military and economic assistance to Cambodia "shall not be construed as a commitment by the United States to Cambodia for its defense." It is a fascinating question of law how a country which has refused protection under a treaty, a country whose defense by the United States is prohibited by law, nonetheless qualifies as an "ally." Really something more than an ally, in Mr. Richardson's view, since its "request" for our air strikes is invoked as a basis for the President's authority to mount those air strikes. In this frame of reference, the Phnom Penh regime qualifies as a kind of super-ally, with an active role, superseding that of Congress, it would seem, in our constitutional processes. Or, as Merlo Pusey, a student of the war power, has put it:

> To say that the President is free to engage in military activities in another country merely on the request of its leader is to argue that he is free to make war at his own discretion regardless of how remote our interests in the outcome may be.

One might dismiss Secretary Richardson's eccentric notions of the President's war power as the aberration of an impromptu press conference, but for the fact that he reiterated the same views on a subsequent occasion. Asked during an appearance on "Meet the Press" on April 1 for some constitutional justification for the bombing of Cambodia, the Secretary said that he did not think it would be difficult to come up with one—"unless you are looking for some line in the Constitution that deals specifically with this kind of situation." The administration's authority, Mr. Richardson went on:

> Rests on the circumstances that we are coming out of a ten-year period of conflict. This is the windup. The fighting in Cambodia is a kind of residue. . . .

Some of us indeed are "looking for some line in the Constitution." Laboring under the quaint notion that our basic law, "living document" though it may be, requires some modicum of relationship between its own specifications and the behavior of officials who are supposed to be operating under it, we think it reasonable to expect executive branch officials to cite the provisions of the Constitution which they believe authorize their actions, all the more for the fact that there are other provisions of the Constitution—the war powers of Congress as spelled out in article I, section 8—which clearly prohibits unauthorized executive action. Even if one is not a strict constructionist, as President Nixon and his assistants quite evidently are not, one would hope to be able to construe something from the Constitution relating to actions taken in its name—something more, that is, than all this sophistic nonsense about "lingering corners" and "residues" of wars and the support of an "ally" who under our law is disavowed as an ally.

In apparent recognition of the inadequacy of such makeshift pseudo-legalities, the State Department's lawyers labored mightily to produce a definitive document, submitted by Secretary Rogers to the Foreign Relations Committee on April 30, purporting to establish the President's authority to conduct the air war in Cambodia. Citing the various requirements of withdrawal from and nonintervention in Cambodia and Laos spelled out in article 20 of the Paris peace agreement, the State Department memorandum claims a Presidential right to take military action to enforce this provision of the Paris settlement, although that settlement is not a treaty, but an executive agreement contracted without the consent or authorization of Congress. Because there has been no cease-fire in Cambodia, because North Vietnamese forces have not withdrawn from that country as specified in article

20 of the Paris peace agreement, and because, in consequence, U.S. air support is needed to sustain the Lon Nol government, it is inferred by the State Department memorandum that—

U.S. air strikes in Cambodia do not represent a commitment by the United States to the defense of Cambodia as such but instead represent a meaningful interim action to bring about compliance with this critical provision in the Vietnam Agreement.

The language is bureaucratically murky, but its thrust is clear—the President now claims war powers to enforce the executive agreement of January 27, 1973.

Even if there were grounds for so extravagant a claim, the claim is inconsistent with the State Department's own interpretation of the Paris agreement. We are much in the debt of the Senator from Missouri (Mr. SYMINGTON) for calling to the attention of the Foreign Relations Committee, on April 30, a State Department briefing paper entitled "Interpretation of the Agreement on Ending the War and Restoring Peace in Vietnam." As to U.S. bombing of Cambodia and withdrawal of foreign forces, the briefing paper states as follows:

Our air activities in Laos and Cambodia, both combat and non-combat, have been undertaken at the request of the governments of those two countries. They are not affected by the Agreement *until such time as cease-fires and foreign troop withdrawals are arranged in those two countries.* Article 20 of the Agreement requires respect for the 1954 and 1962 Geneva Agreements and the withdrawal of foreign troops and their equipment from Cambodia. *This article was carefully drafted, however, to avoid stating a time or period of time for the implementation of these obligations, and it was clearly understood that they would be implemented as soon as cease-fire and troop withdrawal arrangements could be worked out in Laos and Cambodia.* . . .

Again, as to the withdrawal of foreign troops, the briefing paper states:

The obligation to withdraw foreign forces from Laos and Cambodia is stated in Article 20(b) of the Agreement. However, *this obligation constitutes an agreement in principle and no time is stated for it to become an effective obligation.* It was recognized that this, as other obligations of Article 20, should become effective at the earliest possible time, but it was also recognized that *the precise timing would depend upon the timing of agreements among the contesting parties in Laos and Cambodia.* We made it clear to the North Vietnamese that we intended to continue our air strikes in Laos until there was a cease-fire there, at which time they would of course be prohibited.

Thus, the provisions of Article 20(b) should be understood as agreements in principles which the United States and the DRV would endeavor to see were included in cease-fire or other settlement agreements in Laos and Cambodia. *Only when such agreements are concluded will the obligation to withdraw become operational.*

As between the two sections of the briefing paper quoted—the one relating to our bombing, the other to withdrawal of foreign forces—the administration is in a position of perfect inconsistency. On the one hand it makes cryptic references to a secret understanding that the U.S. bombing would continue until a cease-fire was concluded. On the other hand North Vietnam is accused of violating the Paris agreement, although by the administration's own written understanding of article 20, the North Vietnamese will be obligated to withdraw from Cambodia only when a cease-fire is concluded. Not only, then, does the administration claim to derive war powers from an executive agreement with a foreign nation; it does so under a false and misleading version of its own official—and hitherto secret—understanding of that agreement. It is difficult to conceive of a legal position more bankrupt.

Lacking anything more specific in the way of Presidential authority to sustain the air war in Cambodia, the State Department memorandum of April 30 is reduced to such banalities as the revelation that article II of the Constitution vests the Executive power in a President, who is also to be Commander in Chief of the Armed Forces. And—little though it supports the Executive's position—the memorandum goes on to remind us that the President, "shall take care that the laws be faithfully executed." Finally, the State Department memorandum has resorted to that favorite proposition of the loose constructionists, the alleged ambiguity of the Constitution and the deliberate imprecision of the framers in dividing powers between Congress and the President. The framers, in this view, were wise indeed "in leaving considerable flexibility for the future play of political forces."

Painful experience has taught us in the Senate to be wary of panegyrics to ambiguity, "flexibility and the future play of—political forces." All these, we have come to learn, are euphemisms for one thing—the Executive desire to conduct foreign policy exactly as the President sees fit, without the bothersome intereference of Congress. In fact the framers of our Constitution were not nearly as vague and indecisive as the Executive would have us believe. As the Foreign Relations Committee noted in its war powers report of last year:

Whatever else they may have painted with a "broad brush," the framers of the American Constitution were neither uncertain nor ambiguous about where they wished to vest the authority to initiate war . . . . the framers vested the authority to initiate war in the legislature, and in the legislature alone, and established the framework for tight Congressional control over the military establishment.

III. ENDING IT

There are two possible ways of ending this war in Cambodia which goes against both our laws and our interests. The preferred approach—a negotiated cease-fire—is at the disposal of a reluctant executive. The alternative—a legislative mandate to end the bombing and all other American involvement—is available for Congress to employ at any time.

From the standpoint of our interests our negotiating position is strong; because there is no threat to the security or welfare of the United States, we are in a position to tolerate any of the contending factions, or any combination of them, as the Government of Cambodia. It is here, rather than in the constitutional realm that the President possesses the flexibility he seems to value so highly. It is only Mr. Nixon's own abiding conviction that it matters to the United States who rules in Phnom Penh—or for that matter in Saigon—that has robbed our policy of flexibility, kept us on the edge of the abyss, and condemned the Cambodian peasantry to death and devastation by American bombs.

One possible result of a negotiated settlement might be the restoration of Prince Sihanouk as head of a coalition of the disparate elements contending for power in Cambodia. He visited the guerrilla-held territory of Cambodia in February and March, and there are unauthenticated reports that he has put together a coalition of the rebel forces. Sihanouk is considered to be "Peking's man," but he is also thought to be acceptable to Hanoi, and both China and North Vietnam have indicated their preference for a neutral Cambodia. Aside from the pride and pretensions of the Nixon administration, there is no reason why the United States could not tolerate a coalition of Sihanouk and the Khmer Rouge, with or without the participation of Lon Nol, Sirik Matak and other members of the present regime in Phnom Penh. For that matter we could as well tolerate a regime dominated by the Khmer Rouge. And we could call it "peace with honor," if such slogans are required, for the compelling reason that a nation's honor is inseparable from its interests, and our interests impose no requirements at all as to the kind of regime which will rule in Phnom Penh. When honor and interests diverge, as they do in Mr. Nixon's current policy, then it is not honor at all which is at stake but pride and presumption.

In the absence of a new and wiser approach by the administration, Congress has the legislative authority—perhaps, one might add, the responsibility—to bring Mr. Nixon's post-Vietnam war to a belated end. It is unlikely that this can be accomplished by the simple denial of the authority to transfer military funds recently requested by the administration; in his testimony before the Senate Defense Appropriations Subcommittee on May 7, Secretary Richardson made it known that the administration would not be deterred from its bombing campaign by so simple a legislative device. He proceeded thereupon to acquaint the subcommittee with the kind of legerdemain to which the administration will have resort if the transfer authority is denied. And, as an added fillip, the Secretary tried to scare Senators away from an amendment specifically prohibiting the use of funds for the bombing by suggesting that if such a prohibition were defeated, then "we would be justified in regarding that vote as a vote to at least acquiesce in that activity." Here then is another interesting example of the jurisprudence of Mr. Nixon's Attorney General-designate: anything goes unless specifically prohibited, and an unsuccessful attempt to prohibit some activity will be taken as a vote of confidence.

Mr. Richardson's blackmail notwithstanding, Congress can and should pro-

hibit the continuation of this cruel and unnecessary war. The logical and available vehicle is the Church-Case amendment, which would prohibit any further military action in or over or from off the shores of the countries of Indochina unless specifically authorized by Congress, and would prohibit economic assistance of any kind to North Vietnam unless specifically authorized by Congress. Just possibly, the administration's threat to interpret an unsuccessful vote on the Church-Case amendment as an endorsement of its policy will provide Senators and Congressmen with the added incentive to make sure that this time, at long last, congressional action to end the war in Indochina will not fail.

Mr. Kissinger, the architect of the unfulfilled Paris peace agreement, has been preoccupied of late with compassion. He calls for a compassionate debate as to where we are going at home and abroad, and he even calls for compassion toward those involved in the Watergate affair, lest we fall into an orgy of recriminations. As I indicated at the beginning of these observations, I am glad to endorse Mr. Kissinger's plea, and indeed to expand upon it by calling upon the administration to show compassion as well as to seek it. It can do so by lifting from the people of Cambodia the burden of death and devastation, and by lifting from the American people the burden of division and recrimination, which this war, more than any domestic scandal, has imposed upon them.

THE BOMBING IN CAMBODIA

Mr. JAVITS. Mr. President, there is an ongoing debate before the Committee on Foreign Relations respecting the constitutional authority of the President to continue the bombing in Cambodia. In this ongoing debate, in which both the Secretary of Defense and the Secretary of State have testified, the attitude taken is that the bombing in Cambodia does represent a constitutional power of the President based primarily upon the fact that the President entered into a cease-fire agreement; that that cease-fire agreement is alleged to have contemplated a cease-fire in Cambodia; that North Vietnam, through the presence of its troops—and there is a great deal of argument about how many troops they have and whether they are the decisive factor in the conflict in Cambodia—is really sustaining the civil war which is going on in Cambodia; that, therefore, to "enforce" the cease-fire agreement, in order to make it effective in all its terms, the President has authority to bomb.

Mr. President, I do not agree with that argument. In the absence of any superseding statement by the President, we must take as authoritative the memorandum submitted to the Foreign Relations Committee by the Secretary of State on April 30. The legal and constitutional arguments in that brief are just not tenable, in my judgment. I do not believe there is any constitutional authority for the President of the United States to engage in bombing in Cambodia. I believe that the last vestige of any such authority disappeared when U.S. troops were withdrawn from South Vietnam. This is entirely consistent with the assertions of the President, the Secretary of State, and the President's foreign policy chief, Dr. Kissinger, when Cambodia was invaded—or when we moved into Cambodia—in 1970 in order to allegedly destroy enclaves which were threatening U.S. troops in South Vietnam through the presence in those enclaves in Cambodia of North Vietnamese troops. It was also the explanation for withdrawal in July of 1970, at a time when it was alleged that the work had been done—that is, that the North Vietnamese had been disabled in those enclaves.

Now the ground has shifted to another constitutional justification. I see nothing in the Constitution or in practice under the Constitution, in view of the fact of the cease-fire in Vietnam—incidentally, that cease-fire does not call for a cease-fire in Cambodia—that would justify the bombing in Cambodia. The cease-fire agreement just says that the parties contemplate that there will be a cease-fire in Cambodia. It does call for the withdrawal of all foreign troops from Cambodia, which includes North Vietnamese troops. But this agreement made by the President with the North Vietnamese, and other parties depends, for its being construed as a cease-fire agreement, and not a treaty, upon the fact that it is completely operative and that the operation under it is finished.

An Executive agreement, it is charged, can be made where you are dealing with the question of deployment or nondeployment of forces which is exactly what the cease-fire comes to. It is a grave question to me that a cease-fire which has been implemented within the area in which U.S. troops are engaged can now be construed as a treaty, without Senate ratification, on the ground that one of the parties may be held to its terms outside the operation of the cease-fire where it affected American troops. I do not believe that is so.

I believe that if the President wants to implement, by force, the terms of this agreement on the grounds that the terms can be projected to another country—and after the departure of U.S. troops—it would have to be a treaty ratified by the Senate; and even then he could act only with the concurrence of Congress, because his actions necessitate making war in order to enforce a treaty.

So, I cannot see any constitutional ground whatever that justifies this Presidentially ordered and conducted air war.

The President of the United States, the most solemn and important Office we have in this country in matters of foreign policy, declared yesterday, through his spokesman, according to one of our prominent newspapers this morning, that recent steps in the Senate and the House of Representatives to stop the American bombing in Cambodia were especially damaging, because they came "on the very eve of negotiations to achieve compliance" with the Paris agreement.

Mr. President, I said a moment ago that there is a very grave question as to whether any "compliance" with the Paris agreement is justified on the ground that this is a contemplated cease-fire; but let us assume that it is, because of the failure of the North Vietnamese to withdraw their troops, in whatever number, from Cambodia—that is part of the agreement—and on the ground that the President did not choose to submit that agreement to the Senate. Hence, the concept of the agreement as a treaty is an erroneous concept. At the most, it is an operative document in the field; and once American troops are out of the field, that is the end of it.

Finally, in addition to the fact that it has not been submitted as a treaty and will not be, I do not believe the Constitution empowers the President to go to war in order to enforce the terms of a treaty unless Congress concurs.

The President says that we should shut our eyes to these acts—notwithstanding, as I believe, that they are contrary to law and the Constitution, the highest law of the land—on the ground that if we do not shut our eyes to it, we will be damaging the cause of our country on the very eve of negotiations, and so forth.

Mr. President, my answer to that is as follows: First, if when we insist that law and the Constitution be observed we are damaging the interests of our country, then surely we are being asked to subscribe to one-man rule, because we are damaging the interests of our country in the opinion of one man, the President of the United States, who is just as mortal as I am, or any Senator or Congressman, or anyone in the United States, and he can be just as wrong.

Second, we are asked to forego the protections of the Constitution upon which our liberties are based. There is a higher cause than anything that happens in Indochina. We see on all sides what happens to our Constitution when we shut our eyes to the requirements of law on the ground of some vague higher law. For example, in the eyes of a good many of these people involved in the scandals now being heard before a Senate committee their higher cause was to at all costs, no matter what it meant, no matter what act had to be performed, and whether the occupant of the office wanted it or not, to commit any act so long as he could be President of the United States. That is not the way our country is run. I am confident that is not the way the President wants it or wanted it, and it is not anything we can condone.

I have rejected the argument that we are interfering because we insist on obedience to the Constitution.

In answer to the argument with respect to the cutoff of funds in the Committee on Appropriations and the vote in the other body demonstrating the same attitude, that we are running counter to the highest interests of our country, on the contrary we are acting in the highest interests of our country.

Next, are we really interfering with negotiations looking toward compliance with the cease-fire agreement, which is the administration case? To that I answer decidedly "no," for this reason. All we ask of the President is that he come to Congress and make a case. What we say is that we, too, have power in this matter; that we have a joint power; that the power is not alone in the President.

If the President has a case in the highest interest of our country, can we assume that a majority of the House and the Senate will not go with him and drag its feet, and prejudice and harm the interest of our country and its security and the people in the world by obdurately not assisting the President of the United States? Never. I do not believe that this argument is valid any more than the argument with respect to the Constitution or the law was valid.

While personally I am doubtful that they could at this time persuade the Congress to endorse new or continued hostilities in Indochina, that possibility cannot be ruled out given the great persuasiveness of the President and his key advisor in foreign affairs. It is most unfortunate in my judgment that the President has not chosen to pursue this course which is the proper and only course open to him at this stage under the Constitution as I understand it. Accordingly I call upon the President to seek a congressional authorization if he believes it is necessary or desirable in the national interest to continue the bombing of Cambodia. If he should do this, I would do my utmost to see that every opportunity is accorded to the President to make his case as fully and as persuasively as he can. However, the President, the Congress, and the Nation would then have to be prepared to accept the verdict as reflected in the votes of the Senate and the House of Representatives.

I deeply feel that the President would be much better served by dealing with the issue of coming to Congress, making his case, revealing the facts and circumstances that he feels demands bombing on the part of the United States, get the concurrence of Congress, and in so doing he would sustain the rule of law and sustain the highest interest of the Constitution of the United States in protecting the liberties of our people.

It is significant that for the second time the Committee on Foreign Relations this very day, with almost unanimity—only one member voting present, again reported a historic break with the past, is the War Powers Act, to codify and give us a methodology on the question of right of the President to make war without the consent of Congress, which has been growing until it blossomed in full variety in the Vietnam war.

As one who praises the President for the enormous leadership he has shown with regard to the foreign policy of this country in respect of the opening relations with the People's Republic of China, the new relationship we are trying to establish with the Soviet Union, and many other areas, I urge the President of the United States to come to Congress and seek what would truly be lawful and constitutional authority to carry on the war in Cambodia, and if he will not quit it on the grounds that the liberties of our country are far more important than any other argument that might be made to sustain the bombing, notwithstanding the Constitution.

In closing, I am confident that the President will obey the law when and if the Congress has spoken statutorily on this subject, either in response to Presidential request or on its own initiative in the absence of a Presidential request. Defense Secretary Elliot Richardson assured the Foreign Relations Committee that this would be the case when I questioned him on this very point when he testified before the Foreign Relations Committee on May 8.

Mr. President, I yield the floor.

BILL HELD FOR PRINTING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a bill submitted today by the Senator from New Jersey (Mr. WILLIAMS) be held for printing until the number S. 1861 is reached.

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

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The 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.

ORDER FOR RECOGNITION OF SENATOR GRIFFIN AND SENATOR ROBERT C. BYRD ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, the distinguished Republican leader (Mr. GRIFFIN) be recognized for not to exceed 15 minutes, and that he be followed by the Senator from West Virginia (Mr. ROBERT C. BYRD) for not to exceed 15 minutes.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for Monday is as follows:

The Senate will convene at 12 o'clock noon. After the two leaders or their designees have been recognized under the standing order, the Senator from Michigan (Mr. GRIFFIN) will be recognized for not to exceed 15 minutes, after which the junior Senator from West Virginia (Mr. ROBERT C. BYRD) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to ? minutes. At the conclusion thereof, the Senate will go into executive session to consider the nomination of Mr. William L. Springer, of Illinois, to be a member of the Federal Power Commission for the remainder of the term expiring June 22, 1977. There is a time limitation on that nomination of not to exceed 2 hours. It is anticipated that the time will begin to run at about 1 p.m., 1:10 p.m., or 1:15 p.m. on Monday. All the time may not be taken. The yeas and nays have been ordered on the confirmation of the nomination of Mr. Springer. Hence, there will be a yea-and-nay vote at, I would say, circa 2:30 p.m. or certainly not later than 3 or 3:15 p.m.

Other legislative matters subsequently will probably be taken up and yea and nay votes could likewise occur thereon on Monday afternoon.

ADJOURNMENT UNTIL MONDAY, MAY 21, 1973

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon on Monday next.

The motion was agreed to; and at 3:30 p.m., the Senate adjourned until Monday, May 21, 1973, at 12 o'clock noon.

NOMINATIONS

Executive nominations received by the Senate May 17, 1973:

ASIAN DEVELOPMENT BANK

Paul Rex Beach, of Virginia, to be U.S. Director of the Asian Development Bank, with the rank of Ambassador.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 17, 1973:

DEPARTMENT OF THE TREASURY

Edward C. Schmults, of New York, to be general counsel for the Department of the Treasury.

Donald C. Alexander, of Ohio, to be Commissioner of Internal Revenue.

DEPARTMENT OF STATE

Jack B. Kubisch, of Michigan, a Foreign Service officer of Class 1, to be an Assistant Secretary of State.

Marshall Wright, of Arkansas, a Foreign Service officer of Class 2, to be an Assistant Secretary of State.

Phillip V. Sanchez, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Honduras.

Robert J. McCloskey, of Maryland, a Foreign Service officer of Class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cyprus.

INTER-AMERICAN DEVELOPMENT BANK

John M. Porges, of New York, to be Executive Director of the Inter-American Development Bank for a term of 3 years.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

IN THE DIPLOMATIC AND FOREIGN SERVICE

Diplomatic and Foreign Service nominations beginning Karl D. Ackerman, to be a Foreign Service officer of Class 1, and ending John F. Tefft, to be a Foreign Service officer of Class 7, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 27, 1973.

Diplomatic and Foreign Service nominations beginning Robert C. Amerson, to be a Foreign Service officer of Class 1, and ending Michael D. Zimmerman, to be a Foreign Service officer of Class 6, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 27, 1973.